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Monday
June 8, 1992

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Briefing on How To Use the Federal Register
For information on a briefing in Chicago, IL, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: June 16; 9:00 a.m.
WHERE: Room 328
Ralph H. Metcalfe Federal Building
77 W. Jackson
Chicago, IL
RESERVATIONS: Call the Federal Information Center.
1–800–366–2998

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Presidential Documents

Title 3—

The President

Proclamation 6443 of June 4, 1992

Week for the National Observance of the 50th Anniversary of World War II, 1992

By the President of the United States of America

A Proclamation

At a time when more and more nations are adopting systems of government based on respect for human rights, it may be difficult for many young Americans to fathom the days when the very existence of freedom stood at the heart of a fierce global battle—one in which the United States and its Allies faced totalitarian regimes intent on achieving regional hegemony and world domination. Yet remember those days we must, because however remote the events of a half-century ago may appear today, World War II offers lessons that are vital to the continued preservation of our freedom and security.

At its most fundamental level, World War II was a struggle to preserve our way of life. As President Franklin Roosevelt said in late 1941:

> What we face is nothing more or less than an attempt to overthrow and to cancel out the great upsurge of human liberty of which the American Bill of Rights is the fundamental document: to force the peoples of the earth . . . to accept again the absolute authority and despotic rule from which the courage and the resolution and the sacrifices of their ancestors liberated them many, many years ago.

During World War II, the United States and its Allies were pitted against tyrannical regimes that would brutally deny the God-given rights and dignity of the individual, that would repress freedom of speech and subordinate the individual and family to the whims of the state, and that would exterminate entire peoples while enslaving others through systematic intimidation, repression, and the use of force.

The people of the United States met this threat with an extraordinary display of unity, courage, and resolve. By January 1, 1942, only a few weeks after the attack on Pearl Harbor, more than 100,000 Americans rushed to enlist in the Armed Forces. Before the war ended, more than 16,000,000 Americans would serve in uniform, and some 400,000 would make the supreme sacrifice in the defense of freedom. In the first year of our Nation's participation in World War II, as U.S. and Allied forces fought in places such as Bataan and Corregidor, the North Atlantic, and the Coral Sea, countless citizens prayed at home, church, and school while millions of others worked virtually around-the-clock to maximize the production of our farms, factories, mines, and shipyards. Tested and proven in historic victories at Midway and Guadalcanal, in General MacArthur's celebrated "leapfrog" up the 1,500-mile coast of New Guinea, and in daring Allied campaigns across North Africa, this united front against tyranny would not falter or fail throughout the remaining years of the war.

We Americans have learned many lessons from our experience in World War II, one of the first being that no aggressor, no matter how ruthless or cunning, can match the loyalty and devotion of a free people to the ideals of liberty and self-government. Americans also learned, as President Roosevelt said, "that we cannot live alone, at peace; that our well-being is dependent on the well-being of other nations far away." The Allied victory in World War II affirmed U.S. leadership in global affairs and underscored the importance of promoting constructive dialogue among nations in an increasingly interdependent world.

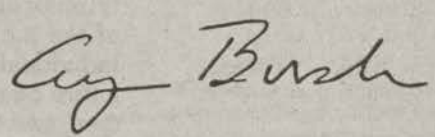
Clearly, the lessons of World War II are timeless. When we reflect on the course of events 50 years ago and then consider the recent emergence of democratic nations around the globe, we recognize, as did President Truman, that the spirit of liberty and the inherent dignity and freedom of the individual "are the strongest and toughest and most enduring forces in all the world."

This week, as we celebrate our freedom in our places of worship and in our halls of government, in private thanksgiving and in public ceremony, let us honor our Nation's World War II veterans, especially the infirm and the hospitalized, and let us remember with grateful prayers those heroic individuals who died in battle so that others might live in freedom, peace, and safety. Finally, let us commit to memory the lessons of World War II and strive, through our constant vigilance and labors, to make them the basis of larger freedom and lasting peace among all humankind.

The Congress, by Public Law 102–290, has designated the week beginning May 31, 1992, as a "Week for the National Observance of the 50th Anniversary of World War II."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of May 31 through June 6, 1992, as a Week for the National Observance of the 50th Anniversary of World War II. I call on all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 4 day of June, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 92–13527
Filed 6–4–92; 2:06 pm]
Billing code 3195–01–M

Editorial note: For the President's remarks on signing this proclamation, see issue 23 of the *Weekly Compilation of Presidential Documents.*

Rules and Regulations

Federal Register
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Monday, June 8, 1992

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 26880; Amdt. No. 1493]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation

(Air), Standard instruction approaches, Weather.

Issued in Washington, DC on May 22, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instruction Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective August 20, 1992

Aniak, AK—Aniak, LOC/DME, RWY 10, Amdt. 2
Aniak, AK—Aniak, ILS/DME, RWY 10, Amdt. 6
Barrow, AK—Wiley Post-Will Rogers Mem, NDB RWY 24, Amdt. 6
Phoenix, AZ—Phoenix Sky Harbor Intl, VOR–A, Orig., CANCELLED
Fayetteville, AR—Drake Field, VOR–A, Amdt. 24
Grand Junction, CO—Walker Field, VOR RWY 11, Amdt. 1
Grand Junction, CO—Walker Field, ILS/DME RWY 11, Amdt. 14
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Pocatello, ID—Pocatello Regional, VOR or TACAN RWY 3, Amdt. 15
Pocatello, ID—Pocatello Regional, NDB RWY 21, Amdt. 18
Pocatello, ID—Pocatello Regional, ILS RWY 21, Amdt. 25
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Lexington, KY—Blue Grass, ILS RWY 22, Amdt. 14
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Kirksville, MO—Kirksville Regional, LOC/DME RWY 36, Amdt. 5
Kirksville, MO—Kirksville Regional, VOR/DME RNAV 18, Amdt. 6
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Morristown, NJ—Morristown Muni, NDB RWY 5, Amdt. 11
Monroe, NC—Monroe, VOR–A, Amdt. 11
Monroe, NC—Monroe, VOR/DME–B, Amdt. 6
Monroe, NC—Monroe, LOC RWY 5, Amdt. 2
Monroe, NC—Monroe, NDB RWY 5, Amdt. 2
Rocky Mount, NC—Rocky Mount-Wilson, LOC BC RWY 22, Amdt. 4, Cancelled
Tulsa, OK—Tulsa Intl, NDB RWY 18L, Amdt. 10
Tulsa, OK—Tulsa Intl, ILS RWY 18R, Amdt. 6
Tulsa, OK—Tulsa Intl, ILS RWY 18L, Amdt. 13
Aiken, SC—Aiken Muni, VOR/DME–A, Orig.
Union City, TN—Everett-Stewart, SDF RWY 1, Amdt.5
Union City, TN—Everett-Stewart, NDB RWY 1, Amdt. 5
Farmville, VA—Farmville Muni, NDB RWY 3, Amdt. 4
Sheridan, WY—Sheridan County, ILS/DME RWY 31, Amdt. 4

** * * Effective July 23, 1992*

Bardstown, KY—Samuels Field, VOR/DME RWY 2, Amdt. 3
Bardstown, KY—Samuels Field, NDB–A, Amdt. 5
Hallock, MN—Hallock Muni, VOR/DME RWY 31, Amdt. 6
Little Falls, MN—Little Falls-Morrison County, NDB RWY 30, Amdt. 4
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McCook, NE—McCook Muni, VOR RWY 30, Amdt. 9
McCook, NE—McCook Muni, VOR RWY 21, Amdt. 3
Albany, OR—Albany Muni, VOR/DME–A, Amdt. 2
Dickson, TN—Dickson Muni, NDB RWY 17, Amdt. 1
Bluefield, WV—Mercer County, VOR RWY 23, Amdt. 7
Bluefield, WV—Mercer County, VOR/DME RWY 23, Amdt. 2
Bluefield, WV—Mercer County, ILS RWY 23, Amdt. 12

** * * Effective June 25, 1992*

Louisville, KY—Standiford Field, VOR or TACAN RWY 29, Amdt. 21
Louisville, KY—Standiford Field, NDB RWY 29, Amdt. 18
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Louisville, KY—Standiford Field, ILS RWY 19, Amdt. 8
Louisville, KY—Standiford Field, ILS RWY 29, Amdt. 21
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** * * Effective May 15, 1992*

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** * * Effective May 13, 1992*

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[FR Doc. 92–13306 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 26881; Amdt. No. 1494]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on May 22, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
05/08/92	AZ	Phoenix	Phoenix Sky Harbor Intl	FDC 2/2669	VOR-A ORIG.
05/08/92	AZ	Show Low	Show Low Muni	FDC 2/2668	NDB-A ORIG.
05/08/92	CA	Santa Barbara	Santa Barbara Muni	FDC 2/2675	VOR RWY 25 AMDT 6.
05/08/92	ID	Caldwell	Caldwell Industrial	FDC 2/2661	NDB RWY 30, AMDT 3.
05/08/92	ID	Lewiston	Lewiston-Nez Perce County	FDC 2/2660	VOR RWY 8 AMDT 5.
05/08/92	ID	Lewiston	Lewiston-Nez Perce County	FDC 2/2663	VOR RWY 26 AMDT 12.
05/08/92	KS	Newton	Newton-City County	FDC 2/2650	NDB RWY 35 AMDT 2.
05/08/92	KS	Newton	Newton-City County	FDC 2/2651	RNAV RWY 35 AMDT ORIG.
05/08/92	KS	Newton	Newton-City County	FDC 2/2652	RNAV RWY 17 ORIG.
05/08/92	KS	Newton	Newton-City County	FDC 2/2654	NDB RWY 17 AMDT 3.
05/08/92	OR	Scappoose	Scappoose Industrial Airpark	FDC 2/2658	VOR/DME-A AMDT 1.
05/08/92	WA	Seattle	Seattle-Tacoma Intl	FDC 2/2662	ILS RWY 34L, AMDT 1.
05/11/92	KS	Newton	Newton-City County	FDC 2/2701	ILS RWY 17 AMDT 2.
05/11/92	MT	Forsyth	Tillitt Field	FDC 2/2708	NDB RWY 26 AMDT 2.
05/13/92	CA	Lompoc	Lompoc	FDC 2/2811	VOR/DME-A AMDT 3.
05/13/92	LA	Hammond	Hammond Muni	FDC 2/2738	VOR RWY 31 AMDT 3.
05/13/92	LA	Hammond	Hammond Muni	FDC 2/2739	VOR RWY 18 AMDT 2.
05/13/92	LA	Hammond	Hammond Muni	FDC 2/2852	ILS RWY 18 AMDT 2.
05/13/92	NY	Hamilton	Elisa Payne	FDC 2/2744	VOR-A AMDT 2.
05/14/92	CO	Colorado Springs	City of Colorado Springs Muni	FDC 2/2780	ILS RWY 17 AMDT 4.
05/14/92	CO	Colorado Springs	City of Colorado Springs Muni	FDC 2/2782	NDB RWY 35 AMDT 25.
05/14/92	CO	Colorado Springs	City of Colorado Springs Muni	FDC 2/2785	ILS RWY 35 AMDT 36.
05/15/92	ST	Christiansted	Alexander Hamilton	FDC 2/2798	CROIX, VI. VOR RWY 27 AMDT 18.
05/20/92	MN	Red Wing	Red Wing Muni	FDC 2/2886	NDB RWY 9 AMDT 2.

NFDC Transmittal Letter Attachment

Show Low

Show Low Muni
Arizona
NDB-A ORIG . . .
Effective: 05/08/92

FDC 2/2668/SOW/ FI/P Show Low Muni, Show Low, AZ. NDB-A ORIG . . . TRML RTE Hozer INT TO SOW NDB DSTC 7.6 VICE 8.1. Delete notes . . . Maintain 8100 or above until established outbound for proc turn. Activate MIRL RWY 6-24 UNICOM. This becomes NDB-A ORIG A.

Phoenix

Phoenix Sky Harbor Intl
Arizona
VOR-A ORIG . . .
Effective: 05/08/92

FDC 2/2669/PHX/ FI/P Phoenix Sky Harbor Intl, Phoenix, AZ. VOR-A ORIG . . . MIN ALT AT Lakey INT 6000 Vice 4200. This becomes VOR-A ORIG A.

Santa Barbara

SANTA BARBARA MUNI
California
VOR RWY 25 AMDT 6 . . .
Effective: 05/08/92

FDC 2/2675/SBA/ FI/P Santa Barbara Muni, Santa Barbara, CA. VOR RWY 25 AMDT 6 . . . Delete Tally INT/GVO 16.7 DME. Delete Tally FIX MINS . . . This Becomes VOR RWY 25 AMDT 6A.

LOMPOC

LOMPOC
California
VOR/DME-A AMDT 3 . . .
Effective: 05/13/92

FDC 2/2811/LPC/ FI/P Lompoc, CA. VOR/DME-A AMDT 3. . . Delete note . . . Use Vandenberg AFB ALSTG; when Vandenberg Approach not in Operation Proc NA. ADD NOTE . . . IF LCL ALSTG not received, use Vandenberg AFB ALSTG; when neither received, proc NA. ADD ALTN MINS . . . CATS A AND B 900-2 (not authorized when LCL ALSTG not available). This becomes VOR/DME-A AMDT 3A.

Colorado Springs

City of Colorado Springs Muni
Colorado
ILS RWY 17 AMDT 4 . . .
Effective: 05/14/92

FDC 2/2780/COS/ FI/P City of Colorado Springs Muni, Colorado Springs, CO. ILS RWY 17 AMDT 4 . . . Change all references to RWY 17-35 to RWY 17R-35L. This becomes ILS RWY 17R AMDT 4A.

Colorado Springs

City of Colorado Springs Muni
Colorado
NDB RWY 35 AMDT 25 . . .
Effective: 05/14/92

FDC 2/2782/COS/ FI/P City of Colorado Springs Muni, Colorado Springs, CO. NDB RWY 35 AMDT 25 . . . Change all references to RWY 17-35 to RWY 17R-35L. This becomes NDB RWY 35L, AMDT 25A.

Colorado Springs

City of Colorado Springs Muni
Colorado
ILS RWY 35 AMDT 36 . . .
Effective: 05/14/92

FDC 2/2785/COS/ FI/P City of Colorado Springs Muni, Colorado Springs, CO. ILS RWY 35 AMDT 36 . . . Change all references to RWY 17-35 TO RWY 17R-35L. This becomes ILS RWY 35L, AMDT 36A.

Lewiston

LEWISTON-NEZ PERCE COUNTY
Idaho
VOR RWY 8 AMDT 5 . . .
Effective: 05/08/92

FDC 2/2660/LWS/ FI/P Lewiston-Nez Perce County, Lewiston, ID. VOR RWY 8 AMDT 5. . . Delete lighting note . . . Activate MALSR RWY 26 119.4. Delete note . . . ALTN MINS NA when CTL TWR not in operation. Revise ALTN MINS to . . . Standard, CAT C 800-2 1/4, CAT D 800-2 1/2 . . . ALTN MINS NA when CTL TWR CLSD except for operators with approved weather reporting services. This becomes VOR RWY 8 AMDT 5A.

Caldwell

Caldwell Industrial
Idaho
NDB RWY 30, AMDT 3 . . .
Effective: 05/08/92

FDC 2/2661/U35/ FI/P Caldwell Industrial, Caldwell, ID. NDB RWY 30, AMDT 3 . . . Delete note . . . Use Boise, ID ALSTG add revised note . . . IF LCL ALSTG not received, use Boise ALSTG. This becomes NDB RWY 30, AMDT 3A.

Lewiston

Lewiston-Nez Perce County
Idaho
VOR RWY 26 AMDT 12 . . .

Effective: 05/08/92

FDC 2/2663/LWS/ FI/P Lewiston-Nez Perce County, Lewiston, ID. VOR RWY 26 AMDT 12 . . . Delete Lighting note . . . Activate MALSR RWY 26 119.4. Revise ALTN MINS TO ADD . . . ALTN MINS NA when CTL TWR closed except for operators with approved weather reporting services. This becomes VOR RWY 26 AMDT 12A.

Newton

Newton-City County
Kansas
NDB RWY 35 AMDT 2 . . .
Effective: 05/08/92

FDC 2/2650/EWK/ FI/P Newton-City County, Newton, KS. NDB RWY 35 AMDT 2 . . . TRML RTE Waive INT to Newton NDB CRS/DTSC . . . 086/ 9.8NM. Delete note . . . MALSR . . . thru . . . CTAF. Change ALT NOTE . . . IF LCL ALSTG not received use Wichita ASLTG and increase all MDAS 100FT. This becomes NDB RWY 35 AMDT 2A.

Newton

Newton-City County
Kansas
RNAV RWY 35 AMDT ORIG . . .
Effective: 05/08/92

FDC 2/2651/EWK/ FI/P Newton-City County, Newton, KS. RNAV RWY 35 AMDT ORIG . . . TRML RTE waive INT to SPINA WP CRS/DTSC . . . 128/ 13.7NM. Delete Note . . . MALSR . . . Thru . . . CTAF. Change ALT note . . . IF LCL ALSTG not received use Wichita ASLTG and increase all MDAS 100FT. This becomes RNAV RWY 35 ORIG–A.

NEWTON

Newton-City-County
Kansas
RNAV RWY 17 ORIG. . .
Effective: 05/08/92

FDC 2/2652/EWK/ FI/P Newton-City County, Newton, KS. RNAV RWY 17 ORIG. . . Delete Note. . . MALSR. . Thru. . CTAF. Change ALT Note. . . If LCL ALSTG not received use Wichita ASLTG and increase all MDAS 100 FT. This Becomes RNAV RWY 17 ORIG-A.

Newton

Newton-City County
Kansas
NDB RWY 17 AMDT 3. . .
Effective: 05/08/92

FDC 2/2654 EWK/FI/P Newton-City County, Newton, KS. NDB RWY 17 Amdt 3. . . TRML RTE Waive INT to HARVS LOM CRS/DTSC. . . 059/ 10.6NM. Delete Note. . . MALSR. . thru. . CTAF. Change ALT NOTE. . . IF LCL ALSTG not received use Wichita ASLTG and Increase All MDAS 100 FT. This Becomes NDB RWY 17 AMDT 3A.

Newton

Newton-City County
Kansas
ILS RWY 17 AMDT 2. . .
Effective: 05/11/92

FDC 2/2701/EWK/ FI/P Newton-City County, Newton, KS. ILS RWY 17 AMDT 2. . . TRML RTE Waive INT to HARVS LOM CRS/DTSC. . . 059/ 10.6NM. Delete Notes. . . MALSR. . thru. . CTAF, and CAT D. . thru. . INOP MM. Change ALT NOTE. . . IF LCL ALSTG not received use Wichita ASLTG and increase all MDAS 100 FT. This Becomes ILS RWY 17 AMDT 2A.

HAMMOND

Hammond Muni
Louisiana
VOR RWY 31 AMDT 3. . .
Effective: 05/13/92

FDC 2/2738/0R9/ FI/P Hammond Muni, Hammond, LA. VOR RWY 31 AMDT 3. . . Non-standard take-off MINS apply, see take-off MINS. This becomes VOR RWY 31 AMDT 3A.

HAMMOND

Hammond Muni
Louisiana
VOR RWY 18 AMDT 2. . .
Effective: 05/13/92

FDC 2/2739/0R9/ FI/P Hammond Muni, Hammond, LA. VOR RWY 18 amdt 2. . .Non-standard take-off MINS apply, see take-off mins. This becomes VOR RWY 18 AMDT 2A.

HAMMOND

Hammond Muni
Louisiana
ILS RWY 18 AMDT 2. . .
Effective: 05/13/92

FDC 2/2852/0R9/ FI/P Hammond Muni, Hammond, LA. ILS RWY 18 AMDT 2. . . non-standard Take-off mins apply, see Take-off MINS. This becomes ILS RWY 18 AMDT 2A.

Red Wing

Red Wing Muni
Minnesota
NDB RWY 9 AMDT 2. . .
Effective: 05/20/92

FDC 2/2886/RGK/ FI/P Red Wing Muni, Red Wing, MN. NDB RWY 9 AMDT 2. . . Delete note . . . Obtain local altimeter. . . thru. . . visibilities ½ mile. Add note. . . If local altimeter setting not RCVD, use Minneapolis-St Paul Intl altimeter setting and increase all MDAS 160 FT. This is NDB RWY 9 AMDT 2A.

Forsyth

Tillitt Field
Montana
NDB RWY 26 AMDT 2. . .
Effective: 05/11/92

FDC 2/2708/1S3/ FI/P Tillitt Field, Forsyth, MT. NDB RWY 26 AMDT 2. . . Delete Notes . . . use Miles City ALSTG and Activate MIRL and VASI RWY 8–26 CTAF. . . add note. . . use Miles City ALSTG, when not AVBL, except for operators with approved weather reporting services, PROC NA. This becomes NDB RWY 26 AMDT 2A.

HAMILTON

Elisa Payne
New York
VOR–A AMDT 2. . .
Effective: 05/13/92

FDC 2/2744/B24/ FI/P Elisa Payne, Hamilton, NY. VOR–A AMDT 2. . . Delete Note . . . PROC NA at night. Change Planview note. . . NO PT for arrivals. . ."248 CW" to read "249 CW" 334. This becomes VOR–A AMDT 2A.

Scappoose

Scappoose Industrial Airpark
Oregon
VOR/DME–A AMDT 1. . .
Effective: 05/08/92

FDC 2/2658/1S4/ FI/P Scappoose Industrial Airpark, Scappoose, OR. VOR/DME–A AMDT 1. . . TRML route from Mules INT (IAP) to BTG VORTAC (NOPT) COURSE/DISTANCE—340/ 17.7. This becomes VOR/DME–A AMDT 1A.

Christiansted

Alexander Hamilton Airpark
ST.
CROIX, VI. VOR RWY 27 AMDT 18. . .
Effective: 05/15/92

FDC 2/2798/STX/ FI/P Alexander Hamilton, Christiansted, St. Croix, VI. VOR RWY 27 AMDT 18. . . TRML RTE from Gruff Coy 12 DME/RADAR to Coy VOR/DME DIST 12.0 NM. FAF to map 5.0 NM, MAP 5.0 DME. DME MINIMA. . . MDA 640 HAT 600 all CATS, VIS CAT C 1½, CAT D 1¾. Circling MDA 640 HAA 579 all CATS. This becomes VOR RWY 27 AMDT 18A.

Seattle

Seattle-Tacoma INTL
Washington
ILS RWY 34L, AMDT 1. . .
Effective: 05/08/92

FDC 2/2662/SEA/ FI/P Seattle-Tacoma Intl, Seattle, WA. ILS RWY 34L, AMDT 1. . . Delete Chuck INT AS IAF. Facts INT/I–TUC 17.1 DME becomes IAF. MIN ALT facts INT/I–TUC 17.1 DME 5000. MIN ALT MILLT INT/I–TUC 11 DME 3000. This becomes ILS RWY 34L AMDT 1A.

[FR Doc. 92–13307 Filed 6–5–92; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

RIN 0960—None Assigned

Federal Old-Age, Survivors and Disability Insurance (1950–) Determining Disability and Blindness; Extension of Expiration Date for Adult Mental Disorders Listings

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are extending the date on which the adult mental disorders listings found in part A of appendix 1 of part 404, subpart P, will no longer be effective from August 28, 1992, to August 28, 1993. We have made no revisions in the medical criteria in these mental disorders listings; they remain the same as they now appear in the Code of Federal Regulations. We are presently considering comments we received on a proposed rule to update the medical criteria used to evaluate mental disorders in adults contained in part A and to make technical changes to part B of the listings used to evaluate mental disorders in children. When we have completed our review, any revised criteria will be published as final regulations.

EFFECTIVE DATE: This rule is effective June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243.

SUPPLEMENTARY INFORMATION: Final regulations issued on August 28, 1985 (50 FR 35038), containing the adult mental disorders listings, included a provision which provided that the listings would expire on August 27, 1988, unless extended by the Secretary of Health and Human Services (the Secretary) or revised and promulgated again. The reason we gave for establishing this expiration date was as follows: "The dynamic nature of the diagnosis, evaluation and treatment of the mental disease process requires that the rules in this area be periodically revised and updated. We intend to carefully monitor these regulations over a 3-year period to ensure that they fulfill congressional intent by providing for ongoing evaluation of the medical evaluation criteria. Therefore, 3 years after publication of final rules, these regulations will cease to be effective unless extended by the Secretary or revised and promulgated again as a result of the findings from the evaluation period."

On August 9, 1988, the Secretary extended the expiration date of these rules through August 27, 1990 (53 FR 29878). The extension was needed to provide additional time for us to determine what revisions to the listings might be necessary.

On October 13, 1988, we announced (53 FR 40135) a public meeting to obtain comments on whether we should revise the adult mental disorders listings and related regulations and, if so, the specific nature of the revisions. The meeting was held in Baltimore, Maryland on November 9–10, 1988. We considered the testimony provided at the meeting and written comments received in response to the meeting announcement along with information from our evaluation activities to determine the need for and nature of revisions to the adult mental disorders listings and related regulations.

We were unable to complete our evaluation in time to have final regulations published by August 27, 1990, the expiration date then in effect. Therefore, on August 28, 1990, we again extended the expiration date of these rules through August 27, 1991 (55 FR 35286). At that time we believed that the additional 1-year extension would provide us with sufficient time to complete our review and to have a final rule published.

On July 18, 1991 we published, in a Notice of Proposed Rulemaking, proposed revisions to the medical criteria for evaluating mental disorders in adults and several technical changes to the medical criteria for evaluating mental disorders in children (56 FR 33130). However, since the adult listings would have expired on August 27, 1991, it was necessary to again extend the expiration date of the current listing criteria (without any changes) for another year—through August 27, 1992. This was done by a final rule published on August 16, 1991 (56 FR 40780). The public comment period provided by the Notice of Proposed Rulemaking closed September 16, 1991. We received over 100 letters which offered over 550 individual comments. In order to ensure sufficient time for careful consideration of all of those comments we are again extending the expiration date of the current listings. Specifically, we are extending the current adult listings (without any changes) for one year—from August 27, 1992, through August 27, 1993. This additional time will enable us to consider more carefully the views expressed by the public. The mental disorders listings in part B of appendix 1 was revised on December 12, 1990 (55 FR 51208), and will no longer be effective on December 12, 1995, unless it is extended by the Secretary or revised and promulgated again.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on these regulations since opportunity for public comment is unnecessary. Prior notice and comment are unnecessary because these regulations involve only the extension of the expiration date of the adult mental disorders listings, and make no substantive changes to these listings. The current regulations expressly provide that the listings may be extended by the Secretary, as well as revised and promulgated again. Since we are not making any revisions to the current listings in this final rule, use of public comment procedures is not contemplated by the existing regulations and is unnecessary under the Administrative Procedure Act. After our review of comments submitted with respect to the proposed revisions to the existing criteria, a final regulation will be published.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because this regulation does not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects disability claimants under titles II and XVI of the Act.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security Disability Insurance; 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and disability Insurance, Reporting and recordkeeping requirements.

Dated: April 14, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 21, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set forth in the preamble, part 404 of title 20 of the Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d)-(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b), and (d)-(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 1302.

Appendix 1 to Subpart P [Amended]

2. Appendix 1 to subpart P is amended by revising the last sentence of the sixth paragraph of the introductory text to read as follows:

* * * * *

* * * The mental disorders listings in part A (12.00) will no longer be effective on August 28, 1993, unless extended by the Secretary or revised and promulgated again.

3. Listings 12.00 Mental Disorders of appendix 1 to subpart P, part A is amended by revising the first paragraph to read as follows:

* * * * *

12.00 Mental Disorders

The mental disorders listings in 12.00 of the Listing of Impairments will no longer be effective on August 28, 1993, unless extended by the Secretary or revised and promulgated again.

* * * * *

[FR Doc. 92-13280 Filed 6-5-92; 8:45 am]
BILLING CODE 4190-29-M

Food and Drug Administration

21 CFR Part 573

[Docket No. 84F-0345]

Food Additives Permitted in Feed and Drinking Water of Animals; Poly(2-Vinylpyridine-Co-Styrene); Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending a final rule that appeared in the **Federal Register** of March 5, 1992 (57 FR 7875). The document amended the food additive regulations to provide for the safe use of poly(2-vinylpyridine-co-styrene) as a coating agent to provide rumen-stable, abomasum-dispersible nutrients for beef cattle. The document was published with an inadvertent error in the specification contained in the regulation. This document corrects that error.

EFFECTIVE DATE: March 5, 1992.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8731.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 5, 1992 (57 FR 7875), FDA published a document that amended the food additive regulations to provide for the safe use of poly(2-vinylpyridine-co-styrene) as a coating agent in the preparation of rumen-stable, abomasum-dispersible nutrients for beef cattle. In 21 CFR 573.870(a) the inherent viscosity was incorrectly provided as a set value rather than a range of acceptable values. Accordingly, this document amends the table in § 573.870(a) to specify the limitations on the inherent viscosity as a range of 1.0 deciliter per gram to 1.6 deciliter per gram. Viscosities outside this range result in an unusable product.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

§ 573.870 [Amended]

2. Section 573.870 *Poly(2-vinylpyridine-co-styrene)* is amended in paragraph (a) in the table under the heading "Limitation" by removing the first entry "1.0 deciliter per gram.[1]" and adding in its place "1.0–1.6 deciliter per gram." [1]

Dated: May 20, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-13244 Filed 6-5-92; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8405]

RIN 1545-AP18

Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operation Loss Carryforwards; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8405, which was published in the **Federal Register** for Monday, March 30, 1992 (57 FR 10739). The final regulations relate to the use of certain corporate tax attributes under section 382 of the Internal Revenue Code of 1986 that are attributable to the period preceding an ownership change of the corporation. Section 382 was amended by the Tax Reform Act of 1986, the Revenue Act of 1987, and the Technical and Miscellaneous Revenue Reconciliation Act of 1989.

EFFECTIVE DATE: March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Lori J. Brown, (202) 566-3205 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide guidance under section 382 for the aggregation of stock ownership with respect to the definition of an entity.

Need for Correction

As published, T.D. 8405 contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8405), which was the subject of FR Doc. 92–7159, is corrected as follows:

§ 1.382–2 [Corrected]

1. On page 10740, column 2, § 1.382–2(a)(3)(ii), paragraph (i) of *Example 2*, third line from the bottom of that paragraph, the language "of L's stock. On October 1, 1991, 15 of these" is corrected to read "of L's stock. On October 1, 1992, 15 of these".

2. On page 10740, column 2, § 1.382–2(a)(3)(ii), paragraph (iii) of *Example 3*, line 2, the language "same if the only additional fact was that the" is corrected to read "same under paragraph (a)(3)(i) of this section if the only additional fact was that the".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–13260 Filed 6–5–92; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 47

[T.D. ATF–323]

Importation of Arms, Ammunition and Implements of War [No. 92–07]

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury Decision).

SUMMARY: On October 29, 1991, the Department of State published a final rule (56 FR 55630 (1991)) formally removing Poland, Hungary, Czechoslovakia, and East Germany from the list of proscribed destinations for exports of defense articles and services in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). This final rule conforms the regulations in 27 CFR part 47 to the revised ITAR. The rule also revises § 47.52(c) to reflect current import policy on South Africa in light of the termination of the major sanctions against South Africa under the Comprehensive Anti-Apartheid Act of 1986, 22 U.S.C. 5052. Additionally, the rule revises § 47.52(a) to reflect the rapidly changing situation in the geographic area formerly known as the Union of Soviet Socialist Republics (U.S.S.R., Soviet Union).

EFFECTIVE DATE: June 8, 1992.

FOR FURTHER INFORMATION CONTACT: A. Virginia Alford or Ernestine O'Neal, Specialists, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202) 927–8320.

SUPPLEMENTARY INFORMATION: The Arms Export Control Act of 1976, 22 U.S.C. 2778, gives the President of the United States the authority to control the import and export of defense articles and defense services.

Executive Order 11958 of January 18, 1977, as amended (42 FR 4311 (1977)), delegated authority to control exports of defense articles and defense services to the Secretary of State.

The Executive Order also delegated to the Secretary of the Treasury the authority to control the import of such articles and services. However, as stated in 27 CFR 47.55, the Bureau of Alcohol, Tobacco and Firearms (ATF) is guided by the views of the Departments of State and Defense on matters affecting world peace and the external security and foreign policy of the United States. After consulting these Departments, ATF is revising the provisions of 27 CFR part 47 to conform to the State Department ITAR and to implement Executive Order 12769 (56 FR 31855) relating to South Africa.

On October 29, 1991, the Department of State published a final rule (56 FR 55630 (1991)) which was effective on that date and which revised the ITAR to delete Poland, Hungary, Czechoslovakia, and the geographical region previously known as the German Democratic Republic (or East Germany) from the list of proscribed countries to which exports of defense articles and services may not lawfully be made.

With respect to imports from South Africa, § 47.52(c) currently provides that pursuant to the United Nations Security Council Resolution 558 of December 13, 1984, and Executive Order 12532 (50 FR 36861) of September 9, 1985, it is the policy of the United States to deny approval to import defense articles and technical data relating to such articles. The regulation also refers to the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5052) as prohibiting the importation of arms, ammunition, and military vehicles produced in South Africa, as well as any manufacturing data for such articles.

On July 10, 1991, the President issued Executive Order 12769 (56 FR 31855) which terminated the sanctions imposed by the Comprehensive Anti-Apartheid Act of 1986 which are referred to in § 47.52(c). Also, Executive Order 12532 was revoked. However, the Department of State has advised that it is still the policy of the United States to adhere to the arms embargo against South Africa imposed by the United Nations Security Council Resolution 558. Therefore, approval to import defense articles and technical data relating to such articles from South Africa will continue to be denied.

Accordingly, this final rule revises § 47.52(a) by removing Poland, Hungary, Czechoslovakia and East Germany from the list of proscribed countries or areas from which defense articles and services may not be approved for importation. In addition, while § 47.52(c) will continue to restrict the importation of defense articles and data relating to such articles from South Africa consistent with the United Nations Security Council Resolution, the final rule deletes references to Executive Order 12532 of September 9, 1985, and the Comprehensive Anti-Apartheid Act of 1986 which are no longer applicable.

Section 47.52(a) is also being revised to reflect the rapidly changing situation in the geographic area formerly known as the Union of the Soviet Socialist Republics (U.S.S.R., Soviet Union). This section is being revised to replace the term "Soviet Union" with the names of the states which made up the former Union of Soviet Socialist Republics.

Executive Order 12291

Because the amendments to 27 CFR part 47 involve a foreign affairs function, Executive Order 12291 does not apply.

Administrative Procedure Act

Under 27 CFR 47.54, the amendments made to 27 CFR part 47 are excluded from the rulemaking provisions of 5 U.S.C. 553 because these regulations involve a foreign affairs function of the United States. Accordingly, it is unnecessary to issue this Treasury Decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation in 5 U.S.C. 533(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–

511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no reporting or recordkeeping requirements.

Drafting Information

The principal authors of this Treasury decision are A. Virginia Alford and Ernestine O'Neal, Specialists, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 47

Administrative practice and procedure, Arms control, Arms and munitions, Authority delegations, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, and Seizures and forfeitures.

Authority and Issuance

PART 47—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR, IS AMENDED AS FOLLOWS:

Paragraphs 1. The authority citation for 27 CFR part 47 continues to read as follows:

Authority: 22 U.S.C. 2778.

Par. 2. Section 47.52 is amended by revising paragraphs (a) and (c) to read as follows:

§ 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy also applies to imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Estonia, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Rumania, Vietnam and the States that comprise the former Soviet Union (Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan). This policy applies to countries or areas with respect to which the United States maintains an arms embargo. It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

* * * * *

(c) In accordance with United Nations Security Council Resolution 558 of December 13, 1984, it is the policy of the United States to deny licenses and other approvals with respect to defense articles, and technical data relating to defense articles, from South Africa.

* * * * *

Signed: February 28, 1992.

Stephen E. Higgins,

Director.

Approved: April 23, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92-13193 Filed 6-5-92; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1 92-002]

Drawbridge Operation Regulations; Kennebec River, ME

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Bath Iron Works (BIW), the Coast Guard has changed the regulations in section 117.525 paragraph (a)(2), governing the Carlton Bridge over the Kennebec River at mile 14.0 between Bath and Woolwich, Maine, by amending the time periods that the bridge need not open during the morning and evening rush hours. This change was requested because the times that the morning and afternoon production shifts arrive and depart from the Bath Iron Works production plant have changed. This change to the regulations should continue to reduce traffic congestion resulting from the traffic created by the two shift-changes at the BIW plant and should still meet the needs of navigation.

EFFECTIVE DATE: This rule is effective on July 8, 1992.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are John McDonald, project officer, and Lieutenant Commander John Astley, project attorney.

Regulatory History

On March 25, 1992, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations, Kennebec River, in the **Federal Register** (57 FR 10321). The Coast Guard received no comments on this proposal. A public hearing was not requested and one was not held.

Background and Purpose

The Bath Iron Works requested a change to § 117.525 paragraph (a)(2) of the regulations for the Carlton Bridge, which presently opens on signal except during the morning and evening rush hours from 6:30 a.m. thru 7:30 a.m. and from 3:45 p.m. thru 5:30 p.m., Monday thru Friday, excluding holidays.

The BIW requested that the hours the Carlton Bridge need not open be expanded to cover the morning and evening rush hours from 6 a.m. thru 7:30 a.m. and from 3:15 p.m. thru 5:30 p.m., Monday thru Friday, excluding holidays.

Discussion of Comments and Changes

No comments were received and no changes were made to this previously published Notice of Proposed Rulemaking.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based upon the fact that there have been only limited openings during the requested closed period and the change is only for a 30 minute adjustment to the existing regulations.

Small Entities

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2. of

Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.525 paragraph (a)(2) is revised to read as follows:

§ 117.525 Kennebec River.

(a)* * *

(2) Except for vessels noted in paragraph (a)(1) of this section, the draw need not open from 6 a.m. to 7:30 a.m. and from 3:15 p.m. to 5:30 p.m. Monday to Friday, excluding holidays.

* * * * *

Dated: May 26, 1992.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 92–13346 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD1 92–027]

Drawbridge Operation Regulations; Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Final temporary rule.

SUMMARY: At the request of the Connecticut Department of Transportation (CONN DOT) and the Town of East Haddam, the Coast Guard is issuing temporary regulations governing the Route 82/East Haddam Bridge over Connecticut River, at mile 16.8, between East Haddam and Haddam, Connecticut. The temporary regulations effective for 155 days from May 29 through October 31, 1992 provide that the bridge need open for recreational vessels only on the hour and half-hour between 9 a.m. and 9 p.m. on Fridays, Saturdays, Sundays, and federal holidays. This temporary regulation was implemented to examine the effect on vehicular and marine traffic during the above period and provides for marine openings in emergency situations. This action should accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on May 29, 1992 and terminate on October 31, 1992.

ADDRESSES: Comments may be mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004–5073. Comments may also be hand-delivered to this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. The District Commander maintains the public docket for this rulemaking. Comments and other material referenced in this notice will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are Mr. Waverly W. Gregory, Jr., Project Manager, and Lieutenant Commander John Astley, Project Counsel.

Regulatory History

On May 1, 1992, the Coast Guard published a notice of proposed temporary rulemaking entitled "Drawbridge Operating Regulations-Connecticut River, CT" in the **Federal Register** (57 FR 18852). The Commander, First Coast Guard District, also published the proposal as a Public Notice 1–780 dated May 1, 1992. In each notice interested persons were given until May 15, 1992, to submit comments. The Coast Guard received no comments on the proposal. A public hearing was not requested and one was not held. A shortened comment period has been implemented in order to permit an opportunity to put the proposed temporary regulation in effect on May 29, 1992, for evaluation purposes, and good cause exists from making them effective in less than 30 days after **Federal Register** publication. Delaying its effective date would be contrary to the public interest since implementation of the temporary regulations is necessary to evaluate their effect during the months when boating and vehicular traffic are in greatest conflict.

Background and Purpose

In response to a request from the Town of East Haddam, CONN DOT requested evaluation of a change to the regulations for the Route 82/East Haddam Bridge, which presently opens on signal. The Town of East Haddam and the Chamber of Commerce feel that commerce is suffering due to perceptions that East Haddam is impassable due to frequent bridge openings and the winding and narrow nature of the local roads.

The Coast Guard was asked to determine if regulations should be permanently adopted to provide scheduled openings, and if such regulations would reduce the effects on morning and evening commuter traffic on Route 82 in the area of the bridge and the adverse effect unscheduled openings have on the patrons of the Goodspeed Opera House. The temporary regulations provide openings for commercial vessels at all times and for recreational vessels at all times except on the hour and half hour, from 9 a.m. to 9 p.m., Fridays, Saturdays, Sundays, and federal holidays for the 155 day period from May 29 through October 31, 1992. This temporary regulation permits the Coast Guard to assess the effect on vehicular and marine traffic during the peak recreational and transient boating season from May 29 through October 31.

Discussion of Comments

No comments were received regarding the Notice of Proposed Rulemaking. However, comments will be accepted throughout the period of this rule until October 31, 1992.

Regulatory Evaluation

This action is considered not major under Executive Order 12291 on Federal Regulation and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The economic impact has been found to be so minimal that a Regulatory Evaluation is unnecessary. This opinion is based on the fact that the regulations will not prevent recreational boaters from transiting the bridge but just require adjusting their time of arrival at the bridge to coincide with openings on the hour and half hour to minimize any delays.

Small Entities

Because the impact of these regulations are expected to be minimal and no comments to the contrary were received, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final temporary rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3051 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final temporary rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying at Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004–5073.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.205, paragraph (c) is added for the 155 day period from May 29 through October 31, 1992 to read as follows:

§ 117.205 Connecticut River.

* * * * *

(c) The draw of the Route 82/East Haddam Bridge, mile 16.8, shall operate as follows:

(1) Public vessels of the United States, state or local vessels used for public safety and vessels in distress shall be passed through the draw as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle or horn, or a radio request.

(2) The owner shall provide and keep in good legible condition clearance gauges with figures not less than 12 inches high designed, installed and maintained according to the provisions of paragraph 118.160 of this chapter.

(3) For commercial vessels, the draw shall open on signal at all times.

(4) For recreational vessels, from May 29 through October 31, the draw shall open on signal except that it need only open on the hour and half-hour from 9 a.m to 9 p.m. on Fridays, Saturdays, Sundays, and federal holidays.

Dated: June 1, 1992.

K.W. Thompson,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 92–13348 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6929

[CA–940–4214–10; CACA 7850]

Partial Revocation of Secretarial Order Dated December 15, 1906; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 25 acres of National Forest System land withdrawn for use as a ranger station. The land is no longer needed for this purpose, and the revocation is needed to permit disposal of the land through land exchange under the General Exchange Act of 1922. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: July 8, 1992.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, room E–2845, Sacramento, California 95825, 916–978–4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Order dated December 15, 1906, which withdrew National Forest System lands for use as ranger stations, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

Inyo National Forest

June Lake Ranger Station

T. 2 S., R. 26 E.,

Sec. 14, NW¼NE¼SW¼, NW¼SW¼ NE¼SW¼, and that portion of lot 3 described as SE¼NE¼NW¼SW¼ and SE¼NW¼SW¼ .

The area described contains 25 acres in Mono County.

2. At 10 a.m. on July 8, 1992, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: May 27, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92–13284 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 383

[Docket No. R–136]

RIN 2133–AA87

Determination of Fair and Reasonable Guideline Rates for the Carriage of Less-Than-Shipload Lots of Bulk Preference Cargoes Carried on U.S.-Flag Liner Vessels; Correction

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Correction of final rule.

SUMMARY: The Maritime Administration ("MARAD") is issuing this notice of correction of a final rule which appeared in the **Federal Register** on May 18, 1992 (57 FR 21033) concerning fair and reasonable guideline rates for liner vessels.

EFFECTIVE DATE: January 2, 1992.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Washington, DC 20590, Telephone (202) 366–2323.

SUPPLEMENTARY INFORMATION: In the May 18, 1992 final rule the Authority paragraph contains an incorrect citation to 46 CFR 1.66, rather than to 49 CFR 1.66.

PART 383—[CORRECTED]

Accordingly, on page 21036 in the **Federal Register** of May 18, 1992, Column 3 46 CFR part 383 is corrected by revising the Authority citation to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1241(b); 49 CFR 1.66.

Dated: June 1, 1992.

James Saari,

Secretary, Maritime Administration.

[FR Doc. 92-13170 Filed 6-5-92; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

Private Land Mobile Radio Services; 220-222 MHz Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; technical amendment.

SUMMARY: This technical amendment is being made to correct the mobile unit frequency tolerance specified in Footnote 18 to the Frequency Tolerance table in § 90.213(a).

EFFECTIVE DATE: June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

List of Subjects in 47 CFR Part 90

Radio.

Amendatory Text

47 CFR part 90 is amended as follows:

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., 1066, 1082; as amended 47 U.S.C. 154, 303 and 332 unless otherwise noted.

2. 47 CFR 90.213 is amended by revising Footnote 18 to the Frequency Tolerance Table in paragraph (a) to read as follows:

§ 90.213 Frequency tolerance.

(a) * * *

Frequency Tolerance

* * * * *

18 In the 220-222 Mhz band, base stations shall maintain the carrier frequency to within ±0.00001 percent, and mobiles shall maintain the carrier frequency to within ±0.00015 percent. Mobile units may utilize synchronizing signals from associated base stations to achieve the specified carrier stability.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-13141 Filed 6-5-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB52

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant Limnanthes floccosa ssp. californica (Butte County Meadowfoam)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status for a plant, *Limnanthes floccosa* ssp. *californica* (Butte County meadowfoam). The subspecies is threatened principally by urban development in the undeveloped northern and eastern portions of the city of Chico in Butte County, California. In addition, conversion of the plant's habitat, vernal pools and ephermeral drainages, for agricultural purposes threatens the plant. Road widening or realignment, overgrazing by livestock, garbage dumping, off-road vehicle use, competing alien vegetation, and stochastic (random) extinction by virtue of the small isolated nature of the remaining populations threaten the subspecies to some degree. This rule implements the protection and recovery provisions afforded by the Endangered Species Act of 1973, as amended (Act), for this species.

EFFECTIVE DATE: June 8, 1992.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, room E-1803, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Jim Bartel at the above address (916/978-4866 or FTS 460-4866).

SUPPLEMENTARY INFORMATION:

Background

Limnanthes floccosa ssp. *californica*, a member of the false mermaid family (Limnanthaceae), was first collected in 1917 by Amos Heller 10 miles (16 kilometers (km)) north of Chico in Butte County, California. In a paper revising the taxonomy of *L. floccosa*, a species that ranges from Jackson County in Oregon to Butte County, Mary Kalin de Arroyo (1973) described *L. floccosa* ssp. *california* from a 1970 collection she made 0.5 miles (0.8 km) south of Shippee Road along State Route 99 in Butte County. The Butte County meadowfoam is a densely pubescent, winter annual herb. Its stems, which range from 1 to 10 inches (3 to 25 centimeters (cm)) in length, generally lie flat on the ground with the tips curved upward. Appearing in late March through April, the flowers of *L. floccosa* ssp. *californica* are white with dark yellow veins at the base of each of the five petals (McNeill and Brown 1979). Though similar in appearance, differences in nutlet (seed) ornamentation, inflorescence, flower shape during full bloom, and sepal fusion and vestiture (i.e., coloring and type of hairiness) separate *L. floccosa* ssp. *californica* from *L. floccosa* ssp. *floccosa* (Jokerst 1989) In addition, electrophoretic (Arroyo 1975) and allozyme (Brown and Jain 1979, McNeill and Jain 1983) studies demonstrated the genetic distinctiveness of *L. floccosa* ssp. *californica*.

Butte County meadowfoam is restricted to a narrow 25-mile (40 km) strip along the eastern flank of the Sacramento Valley from central Butte County to the northern portion of Chico (Jokerst 1989). According to James Jokerst (1989), *Limnanthes floccosa* ssp. *californica* has two centers of distribution; near the type locality in central Butte County, and in and around Chico. Although Arroyo (1973) reported the subspecies from the summit of Table Mountain in Butte County, this locality is based on a 1949 collection by Herbert Mason that is probably mislabeled (James Jokerst, consulting botanist, pers. comm., 1987). Three other *Limnanthes* taxa occasionally are associated with the Butte County meadowfoam; *L. alba* ssp. *alba*, *L. douglasii* var. *rosea*, and *L. floccosa* ssp. *floccosa* which reaches its southern distributional limits in the northern portion of Chico. However, using allozyme and morphometric data, Jefferey Dole and Mei Sun (in press) reported finding no evidence of introgression (i.e., hybridization) at sympatric sites of *L. floccosa* ssp. *californica* and *L. alba* ssp. *alba*. They also found that the Butte County meadowfoam had only an average of 1.2 percent of polymorphic loci, which is an extremely low level of genetic variation compared to other restricted species or *Limnanthes* taxa (Karron 1991). Like other annual flowering plants (Hamrick *et al.* 1991), the proportion of genetic diversity of *L. floccosa* ssp. *californica* existed among rather than within its populations. Consequently, the subspecies' continued existence likely will depend on the long-term conservation of most, if not all, populations (Dole, U.C. Davis researcher, pers. comm., April 30, 1991)

Arroyo (1973) noted that *Limnanthes floccosa* ssp. *californica* grew on the "[e]dges of deep vernal pools in undisturbed areas." Jokerst (1989), however, stated that the subspecies occurs in three types of seasonal wetlands; "ephemeral drainages, vernal pool depressions in ephemeral drainages, occasionally around the edges of isolated vernal pools (i.e., those not connected with other pools by ephemeral drainages)." Vernal pools form in regions with Mediterranean climates where shallow depressions fill with water during fall and winter rains. Downward percolation is prevented by the presence of an impervious subsurface layer, such as a clay bed, hardpan, or volcanic stratum (Holland 1986). Plant species occurring in vernal pools are uniquely adapted to this "amphibious ecosystem," seasonal alteration of very wet and very dry conditions (Zedler 1987, Stone 1990). Upland plants cannot tolerate the temporarily saturated to flooded soils of winter and spring, while the seasonal drying makes the pool basins unsuitable for marsh or aquatic species requiring a permanent source of water.

Limnanthes floccosa ssp. *californica* is primarily threatened by urban development in and around Chico in Butte County, California. In a study funded by the City of Chico, Dole (1988) conducted a field survey of the subspecies' vernal pool and ephemeral drainage habitat to precisely delimit the number and distribution of the Butte County meadowfoam populations in the vicinity of the city. He identified 10 populations in the Chico area, whereas Jokerst (1989) identified an eleventh population ("Diesel") in the northern portion of the city. Construction of an apartment complex, however, destroyed this population. In addition, the California Natural Diversity Data Base (CNDDB) reported that a twelfth site located west of the junction of Paradise Skyway and Bruce Road in Chico was destroyed by the construction of a shopping center in 1985. Recently, Jokerst (pers. comm., May 6, 1991) reported another Chico-area population, which is immediately north of the "Humboldt" population along State Route 32. This "Highway 32" population was severely disturbed 15 years ago when topsoil was removed from the site.

Hundreds of plants now persist in this area, which is grazed by horses (Jokerst, pers. comm., May 6, 1991). Additionally, Jokerst (pers. comm., May 6, 1991) identified a southerly extension of the "Doe Mill" population and three easterly outlying stands east of the "Rancho Arroyo" population. Of the 11 remaining populations in or immediately adjacent to Chico, 8 populations are entirely on private land and zoned for urban development. Two populations and a small portion of another occur on City-owned property surrounding Chico Municipal Airport (Jokerst 1989). The City-owned portions of these three populations, which were reportedly graded or leveled in the past (Patrick Kelley, local botanist, California Native Plant Society (CNPS), pers. comm., March 20, 1990), may be subject to some airport maintenance activities (City of Chico 1989). As a result, the 11 remaining populations in the Chico area are subject to urbanization or airport-related maintenance.

According to the CNDDB, an additional five "occurrences" (i.e., population sites) of *Limnanthes floccosa* ssp. *californica* exist or existed outside of the Chico area. Though Jokerst (1989) noted that only four "non-Chico" populations exist today, Valerie Campbell (pers. comm., May 6, 1991) of the California Department of Transportation (Caltrans) in Marysville reported that her staff located approximately 40 pools and swales harboring *L. floccosa* ssp. *californica* within one section (1 square mile) along State Route 149. These sites can be grouped into three populations; one population between Cottonwood Creek and Gold Run (which was previously reported by the CNDDB and included in the four extant non-Chico populations cited above), and two new populations between Gold Run and Dry Creek. In addition, Mary Meyer (local botanist, CNPS, pers. comm., April 20, 1991) found a new population of *L. floccosa* ssp. *californica* consisting of four plants west of Dry Creek and 1.5 miles (2.4 km) east of State Route 70. This new population is near Pentz approximately 5 miles (8 km) northeast of the populations clustered about the type locality. All seven non-Chico populations are bisected by or immediately adjacent to paved roads, while three of the seven populations exist on parcels smaller than 50 acres in size. Such small parcels of grazing land are often subject to "ranchette" development. The transformation of essentially unaltered lands into cultivated fields ("ag-land conversion") also threatens six of these populations outside of the Chico area. Three of the non-Chico sites were surveyed by Caltrans biologists in anticipation of a possible widening or realigning of State Route 149. In sum, 16 of the 18 remaining populations of *L. floccosa* ssp. *californica* occur entirely or largely on private land and are subject to urban development, ag-land conversion, and highway widening or realignment. Numerous development proposals awaiting approval in the Chico area pose an imminent threat to the plant. The two populations and a small portion of another that occur on City-owned property may be subject to airport maintenance activities. Other potential threats include overgrazing by livestock, garbage dumping, off-road vehicle use, and competing alien vegetation. Moreover, employing Jokerst's (1989) estimated population size data and reports from other commenters, less than 200,000 plants likely existed in the 16 censused sites in 1988. Because 13 of these 16 populations consisted of less than 9,000 plants, stochastic extinction by virtue of the small isolated nature of the remaining populations threatens the subspecies.

Federal government actions on this plant began when the Service published a revised notice of review in the **Federal Register** (45 FR 82480) on December 15, 1980, of native plants considered for listing under the Act. *Limnanthes floccosa* ssp. *californica* was included as a category-1 candidate (species for which the Service has sufficient data in its possession to support a listing proposal). On November 28, 1983, the Service published in the **Federal Register** (48 FR 53640) a supplement to the 1980 notice of review. Because this supplement did not include *L. floccosa* ssp. *californica*, the subspecies remained a category-1 candidate. *Limnanthes floccosa* ssp. *californica* was included as a category 1 candidate in both the September 27, 1985, (50 FR 39526) and the February 21, 1990, (55 FR 6184) notices of review.

The California Native Plant Society (CNPS) petitioned the Service to emergency list *Limnanthes floccosa* ssp. *californica* as an endangered species on February 22, 1988. The Service issued a 90-day finding that substantial information exists indicating that the requested action may be warranted in the **Federal Register** (53 FR 53030) on December 30, 1988. A conservation plan (Jokerst 1989) detailing additional data on the status of the plant confirmed the need for listing. On February 15, 1991 (56 FR 6345), the Service published a proposal to list *Limnanthes floccosa* ssp. *californica* as an endangered species. Because Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt, publication of the proposed rule constituted the final finding for the petitioned action. The Service now determines the Butte County

meadowfoam to be an endangered species with the publication of this rule.

Summary of Comments and Recommendations

In the February 15, 1991, proposed rule (56 FR 6345) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published inviting general public comment. On March 12, 1991, the Service received a written request for a public hearing from Mr. Tom Guarino of the Greater Chico Chamber of Commerce. Subsequently, the Service received another public hearing request from Mr. Thomas J. Lando of the Community Services Department of the City of Chico on March 21, 1991. As a result, the Service published (56 FR 14055) a notice of a public hearing on April 5, 1991, and extended the deadline for the comment period to May 6, 1991. The Service conducted the hearing on April 25, 1991, at the City of Chico Council Chambers in Chico, California. Testimony was taken from 6 p.m. to 9 p.m. Notice of the proposal and public hearing were published in the *Chico Enterprise-Record* and *Sacramento Bee*.

During the comment period, the Service received 44 comments (e.g., letters and oral testimony) from 31 individuals. The California Department of Fish and Game (Fish and Game) was among 12 commenters expressing support for the listing proposal, while 11 commenters opposed or asked for a delay in the listing action. Eight commenters were neutral and the information they provided was generally non-substantive, although some of these individuals provided locality or miscellaneous data on the subspecies or they inquired as to the possible effects of listing on their activities or interests. Written comments or oral statements obtained during the public hearing and comment period are combined in the following discussion. Opposing comments and other comments questioning the rule can be organized into approximately eight specific issues. These categories of comments and the Service's response to each are listed below:

Comment 1: Many commenters requested the Service delay or not list *Limnanthes floccosa* ssp. *californica* because additional distributional and autecological data are needed to determine the subspecies' true status. In addition, they variously contended that past surveys cited in the proposed rule, Dole (1988) and Jokerst (1989), were inadequate. Though the rationale varied, most of the support for this contention was that areas outside the known range of the plant may harbor additional populations. To support the need for further field work, two commenter cited the discovery by Caltrans biologists of three new populations within the known range of the subspecies. Others, however, asserted that the distribution of the Butte County meadowfoam, which has been the subject of botanical study for nearly 20 years by several researchers and local members of the CNPS, is well known and not in need of further study.

Service response: Only four commenters provided precise data on new populations or extensions of known sites beyond that detailed in the two principal surveys of *Limnanthes floccosa* ssp. *californica* (Dole 1988 and Jokerst 1989), which were the primary basis of the proposed rule. Kelley (pers. comm., March 20, 1990) detailed two *L. floccosa* ssp. *californica* populations: (1) "some scattered plants" immediately north of the "Humboldt" population along State Route 32, and (2) an isolated stand east of the "Rancho Arroyo" population along a tributary of Sycamore Creek. Subsequently, Kelley (pers. comm., April 4, 1991) stated that the latter site was actually *L. floccosa* ssp. *floccosa*. Jokerst (pers. comm., May 6, 1991) reported three new populations or extension: (1) the same Butte County meadowfoam north of the "Humboldt" population described by Kelley, (2) a southerly extension of the "Doe Mill" population, and (3) three easterly outlying stands east of the "Rancho Arroyo" population. These "Rancho Arroyo" stands differed in their precise locality from population of *L. floccosa* ssp. *floccosa* reported by Kelley from the same general area. Mary Meyer (pers. comm., April 20, 1991) found a new population of *L. floccosa* ssp. *californica* consisting of four plants west of Dry Creek and 1.5 miles (2.4 km) east of State Route 70. As discussed earlier, Caltrans staff located approximately 40 pools and swales harboring *L. floccosa* ssp. *californica* within one section (1 square mile) along State Route 149. These sites can be grouped into three populations; one population between Cottonwood Creek and Gold Run (which was previously reported by the CNDDB and included in the proposed rule), and two new populations between Gold Run and Dry Creek. These population data have been incorporated into this rule. Nonetheless, no new significant distributional data affecting the status of the subspecies were reported by any respondent. In addition, despite claims of populations in Tehama and Yuba Counties, no populations are reported from outside the known range of the Butte County meadowfoam and no data were presented to contradict the Service's contention that the subspecies is imminently threatened by rapid urban development and other threats in Butte County (see Factor A in "Summary of Factors Affecting the Species"). Although future surveys likely will reveal additional small and isolated pool sites within less-accessible portions of Butte County, these newly discovered sites likely will be threatened by the same activities affecting the other known populations. The Service maintains that this decision is based on the best and most current information available. In addition, the Service believes that sufficient information is available on *L. floccosa* ssp. *californica* to warrant making a determination on its status.

Comment 2: Congressman Herger asserted that "the Butte County meadowfoam does not appear to be facing an immediate threat to its survival" because of the considerable attention and cooperation the subspecies is receiving in the Chico area from the U.S. Army Corps of Engineers (Corps), Fish and Game, and City of Chico. In this regard, one respondent noted that a large development proposed for northeast Chico would not adversely affect the Butte County meadowfoam and that 62 acres would be designated a "natural open space." Five respondents, including the congressman, suggested or implied that the mitigation program adopted by the City of Chico to conserve *Limnanthes floccosa* ssp. *floccosa* should be given a chance. However, other commenters claimed that the protection afforded the subspecies by the three agencies, especially the City's program, was insufficient. One respondent listed examples of the City of Chico's past failure to live up to environmental protection agreements, while another contended that the City program essentially "calls for further destruction of the remaining Butte County meadowfoam sites within the city."

Service response: Regarding the adequacy of local and State regulation, the mitigation program adopted by the City of Chico generates no acquisition funding and relies on developer dedication, either via fee title or conservation easement, of preserved pool habitat. Perhaps as a result of the

voluntary nature of the mitigation program, only one 14.76-acre parcel within a secondary preserve area ("Doe Mill") has been established to date, though two other landowners reportedly are negotiating with the City of Chico (Thomas J. Lando, City of Chico, pers. comm., May 3, 1991). Moreover, the alternative program does not provide for the preservation of, at least, portions of all populations in the Chico area, including the two largest stands "Bruce-Stilson" and "Cohasset" (Dole, pers. comm., April 30, 1991). Such a strategy is likely essential for the long-term survival of this genetically depauperate subspecies. Thus, the long-term effectiveness of the City of Chico's mitigation program in protecting and managing the vernal pool habitat is questionable and likely insufficient. The County of Butte, which declared bankruptcy in 1990, has undertaken no actions to date to protect *Limnanthes floccosa* ssp. *californica* (Jokerst, pers. comm., May 5, 1991). Reportedly, the County has allowed the conversion of over 1,000 acres of Butte County meadowfoam habitat over the last 5 years (Jokerst, pers. comm., May 5, 1991). Regarding the adequacy of Federal regulation, the Corps' report (Art Champ, Regulatory Section, Sacramento District, pers. comm., April 1, 1991) of numerous ongoing or future permit actions affecting most of the remaining Butte County meadowfoam populations in and around Chico attests to the precarious state of Federal protection now provided to the subspecies. See the discussion under Factor D ("Summary of Factors Affecting the Species") for a complete discussion on the inadequacy of existing regulatory mechanisms for *Limnanthes floccosa* ssp. *californica*.

Comment 3: One respondent stated that seeds of *Limnanthes floccosa* ssp. *californica* collected from destroyed pools within the "Humboldt" population should be sown elsewhere.

Service response: Any effort to sow the Butte County meadowfoam on another site would require, at a minimum, a large source of genetically uncontaminated seed, and appropriate, unoccupied, vernal pool or swale habitat within the known range of the subpsecies. Moreover, such an introduction effort must provide for the long-term protection of the introduction site. Even when such conditions can be found, success cannot be guaranteed. For example, one commenter reported that an introduced population of Macoun's meadowfoam (*Limnanthes macounii*) in apparently suitable habitat declined and slowly disappeared for no obvious reason after 7 years of monitoring (Adolf Ceska, botanist and *Limnanthes* researcher, Royal British Columbia Museum, pers. comm., April 19, 1991). As a result, introduction efforts, like that suggested by the respondent, likely will offer only limited mitigation opportunities in the future.

Comment 4: A few people expressed concerns over the economic impact of listing the plant. For example, one respondent claimed that the listing of *Limnanthes floccosa* ssp. *californica* would be costly for people "struggling to purchase their first home." Another commenter stated that any action resulting in a monetary loss regarding his land would not be acceptable.

Service response: Under section 4(b)(1)(A) of the Act, a listing determination must be based solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to "ensure" that listing decisions are "based solely on biological criteria and to prevent non-biological considerations from affecting such decisions" H.R. Rep. No. 97–835, 97th Cong. 2d Sess. 19 (1982). As further stated in the legislative history, "economic considerations have no relevance to determinations regarding the status of species * * * " *Id.* at 20. Because the Service is specifically precluded from considering economic impacts in a final decision on a proposed listing, the Service does not respond to comments concerning possible economic consequences of listing the Butte County meadowfoam.

Comment 5: One commenter was concerned that listing of *Limnanthes floccosa* ssp. *californica* would force local developers to change mitigation agreements made with the City of Chico. Apprehension over potential changes in current agreements likely prompted one respondent to detail the story of 3 years of trying to obtain necessary permits from the Corps to construct church facilities on vernal pool habitat east of Chico. Similarly, two other respondents strongly asserted that the construction of church facilities should be allowed to proceed.

Service response: As discussed under the "Available Conservation Measures" section below, section 7(a) of the Act requires all Federal agencies, like the Corps, to evaluate their actions with respect to *Limnanthes floccosa* ssp. *californica* and to ensure that activities the agency authorizes, funds, or otherwise carries out are not likely to jeopardize the continued existence of a listed species. Though the Corps would become involved with this plant species through its permitting authority under section 404 of the Clean Water Act, the fate of such consultations with the Corps or any consultations with other Federal agencies is not known at this time. As a result, the effect of listing the Butte County meadowfoam on such local projects, including the church, cannot be precisely predicted. Regardless, the listing of the plant may result in a revisiting of past mitigation agreements.

Comment 6: One commenter contested the claim in the proposed rule that all species of *Limnanthes* have the potential to be of high agronomic value because of the oil contained within their seeds (see discussion under Factor D in the "Summary of Factors Affecting the Species"). This commenter stated that *L. floccosa* ssp. *californica* likely has no commercial value because of its narrow habitat requirements and its short stature (usually less than 8 inches (20 cm) tall), which would make cultivation and harvest difficult. However, another respondent noted that Gary Jolliff (crop scientist, Oregon State University) reported during a talk on meadowfoam cultivation at California State University, Chico on April 19, 1991, that meadowfoam is "[i]ncredibly encouraging as a crop potential." This respondent also brought to the public hearing a few meadowfoam-based products (e.g., hand cream, face cream) to demonstrate the potential commercial value of the genus.

Service response: As stated under Factor D in the "Summary of Factors Affecting the Species," crop breeding studies at the University of California Davis suggest that *Limnanthes floccosa* ssp. *californica* has desirable traits for future agricultural use (Jokerst 1989). Regardless as to the eventual commercial value of the Butte County meadowfoam, the Service maintains that the subspecies has not been and likely will not be overutilized in this regard.

Comment 7: One commenter suggested that it would be worthwhile to examine more definitively the taxonomic status of the Butte County meadowfoam in relation to *Limnanthes alba* and other subspecies of *L. floccosa*. Without providing any details or specimens, this commenter also implied that hybrids of *L. floccosa* ssp. *californica* may exist in Yuba County.

Service response: Aside from the electrophoretic (Arroyo 1975) and allozyme (Brown and Jain 1979, McNeill and Jain 1983) studies that demonstrated the gentic distinctiveness of *Limnanthes floccosa* ssp. *californica*, Dole and Sun (in press) reported finding no evidence

of hybridization at sympatric sites of *L. floccosa* ssp. *californica* and *L. alba* ssp. *alba* using allozyme and morphometric data. Using the best and latest systematic and genetic information from a number of reliable sources, the Service maintains that these studies are conclusive and that no additional taxonomic work is necessary.

Comment 8: One respondent stated that the Service should make a "concerted effort" to designate critical habitat for the Butte County meadowfoam as required by section 4 of the Act.

Service response: Under section 4(a)(3)(A) of the Act, the Secretary must designate critical habitat to the maximum extent prudent and determinable at the time a species is determined to be endangered or threatened. In the proposed rule, the Service found that determination of critical habitat was not prudent for these species. As discussed under the "Critical Habitat" section below, the Service continues to find that designation of critical habitat for *Limnanthes floccosa* ssp. *californica* is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Limnanthes floccosa* Howell ssp. *californica* Arroyo are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

As discussed in the "Background" section, 9 of the 11 remaining populations occurring either partially or totally on private lands in the Chico area are threatened by urbanization. These sites have been zoned by the City of Chico for various types of urban uses, like residential, neighborhood commercial, or manufacturing-industrial park (Jokerst 1989). Because 3 of the 7 remaining non-Chico area populations may be suited to ranchette development, 12 of the remaining 18 populations of the Butte County meadowfoam are vulnerable to urban development. In addition, the publicly owned populations on lands surrounding Chico Municipal Airport (Jokerst 1989) may be subject to airport maintenance activities (City of Chico 1989).

As discussed in the "Background" section, ag-land conversion also threatens the six of the seven populations outside of the Chico area. For example, 90 percent of the population of *Limnanthes floccosa* ssp. *californica* growing at the type locality was lost as a result of ag-land conversion for rice production in the early 1980's (Jokerst 1989). The other non-Chico population is threatened by the proposed construction of housing funded by U.S. Department of Housing and Urban Development. In addition, highway widening or realignment threatens portions of the three populations recently surveyed by Caltrans. As a result, all known remaining populations of the Butte County meadowfoam are subject to urban development, airport maintenance activities, ag-land conversion, and/or road widening or realignment.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

All species of *Limnanthes* have high potential agronomic value because of the oil contained within their seeds. Because the lubricating qualities of *Limnanthes* oil are retained under high temperature and pressure, the seed oil is similar to that produced by sperm whales (Jain *et al.* 1977). Crop breeding studies at the University of California Davis suggest that *L. floccosa* ssp. *californica* has desirable traits for future agricultural use (Jokerst 1989). Nonetheless, no overutilization has occurred in this regard and none is expected.

C. Disease or Predation

According to Jokerst (1989), intensive long-term grazing by livestock evidently has eliminated the Butte County meadowfoam from apparently suitable pool habitat in the Chico area. Jokerst (1989) reports that the "Cohasset" population abruptly ends at the fenceline of an overgrazed pasture, while the "North Enloe" and "Bruce-Stilson" populations increased in numbers when grazing pressure was reduced. Dole (1988) similarly noted high population numbers in ungrazed pastures. Albert Beck (local consultant, pers. comm., April 25, 1991) noted that grazing by horses damages meadowfoam populations the most, followed by sheep and then cattle. Nevertheless, *Limnanthes floccosa* ssp. *californica* seems to have persisted in areas receiving light to moderate to periodic heavy grazing pressure (Jokerst 1989). Though the overall effect of livestock grazing is not completely understood, overgrazing doubtlessly has adversely affected and likely continues to threaten the plant.

D. The Inadequacy of Existing Regulatory Mechanisms

Under the Native Plant Protection Act (chapter 1.5 section 1990 *et seq.* of the Fish and Game Code) and California Endangered Species Act (chapter 1.5 section 2050 *et seq.*), the California Fish and Game Commission has listed *Limnanthes floccosa* ssp. *californica* as endangered (14 California Code of Regulations section 670.2). Though both statutes prohibit the "take" of State-listed plants (chapter 1.5 section 1908 and section 2080), State law appears to exempt the taking of such plants via habitat modification or land use change by the landowner. After the California Department of Fish and Game notifies a landowner that a State-listed plant grows on his or her property, State law evidently requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant." (chapter 1.5 section 1913)

Jokerst (1989) drafted a conservation plan for the City of Chico that details various actions designed to conserve *Limnanthes floccosa* ssp. *californica* in the Chico area "while recognizing the need for future urban growth." Though the City of Chico "adopted" the conservation plan on October 17, 1989, an alternative mitigation program or addendum to the plan was approved simultaneously, which actually instituted the City's mitigation procedure for projects affecting the subspecies. The alternative plan calls for the immediate establishment of two "core preserves" and four "secondary preserves" (City of Chico 1989). The plan, which generates no acquisition funding, relies on developer dedication, either via fee title or conservation easement, of preserved pool habitat. Perhaps as a result of the voluntary nature of the mitigation program, only one 14.76-acre parcel within a secondary preserve area ("Doe Mill") has been established to date, though two other landowners reportedly are negotiating with the City of Chico (Thomas J. Lando, City of Chico, pers. comm., May 3, 1991). Reportedly the large development proposed for northeast Chico would not adversely affect the "Rancho Arroyo" population of Butte County meadowfoam because Crocker Development will designate 62 acres as "natural open space" (B. Demar Hooper,

attorney, Hackard, Taylor & Phillips, pers. comm., April 16, 1991). Regardless as to the outcome of this development, the alternative program does not provide for the preservation of, at least, portions of all populations in the Chico area, including the two largest stands "Bruce-Stilson" and "Cohasset" (Dole, pers. comm., April 30, 1991). Such a strategy is likely essential for the long-term survival of this genetically depauperate subspecies. As a result, the long-term effectiveness of the City of Chico's mitigation program in protecting and managing the vernal pool habitat is questionable and likely insufficient.

The County of Butte, which declared bankruptcy in 1990, has undertaken no actions to date to protect *Limnanthes floccosa* spp. *californica* (Jokerst, pers. comm., May 5, 1991). Reportedly, the County has allowed the conversion of over 1,000 acres of Butte County meadowfoam habitat over the last 5 years (Jokerst, pers. comm., May 5, 1991).

Under section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of fill into waters and adjacent wetlands of the United States. To be in compliance with the Clean Water Act, potential permit applicants are required to notify the Corps prior to undertaking any activity (e.g., grading, discharge of soil or other fill material) that would result in the fill of wetlands. Nationwide Permit Number 26 (33 CFR 330.5), which was reissued on November 22, 1991, and became effective on January 21, 1992, (56 FR 59110), addresses fills of headwaters and isolated waters. This permit was issued to regulate the fill of wetlands that are relatively small, less than 10 acres. Most proposals involving the fill of wetlands smaller than 1 acre in size would qualify under Nationwide Permit Number 26. Where fill would occur in a wetland 1 to 10 acres in size, the Corps circulates for comment a predischarge notification to the Service and other interested parties prior to determining whether or not the proposed fill activity qualifies under Nationwide Permit Number 26. Because the Corps must respond within 20 days or the proposed activity will be authorized under Nationwide Permit 26, many projects are authorized by default. Individual permits are required for the discharge of fill into wetlands greater than 10 acres in size. The review process for the issuance of individual permits is more rigorous, and conditions may be included that require the avoidance or mitigation of environmental impacts. The Corps has discretionary authority and can require an applicant to seek an individual permit if the Corps believes that the resources are sufficiently important, regardless of the size of the wetland. In practice, the Corps rarely requires an individual permit when a project would qualify for a nationwide permit.

With respect to the vernal pools harboring *Limnanthes floccosa* ssp. *californica*, most individual pools and ephemeral drainages in Butte County encompass less than 10 acres. As a result, even large projects can qualify for Nationwide Permit 26. For example, the Corps confirmed a wetland delineation of 7.8 acres of vernal pools on property owned by Crocker Development within the "Rancho Arroyo" population, although, to reiterate, the proposed development reportedly will not adversely affect the subspecies. Although the Sacramento District of the Corps has not required individual permits for projects that involve the filling of vernal pools or ephemeral drainages, the District did issue a cease and desist order to a landowner that graded 0.4 acres of vernal pool habitat on a 10.83-acre parcel in violation of section 404 of the Clean Water Act. However, the District notified two applicants (i.e., Century Industrial Park, Pleasant Valley Assembly of God) that proposed fills of vernal pool habitat of *L. floccosa* ssp. *californica* qualified for Nationwide Permit 26. In addition, five landowners have submitted or are preparing wetland delineations for their respective properties in the Chico area, each of which likely will involve less than 10 acres of wetlands (Champ, Core of Engineers, Sacramento District, pers. comm., April 1, 1991).

The issuance of Nationwide Permit 26 or disclaimers does not allow for the assessment of cumulative impacts to the vernal pools or the plant species under consideration herein. Thus, *Limnanthes floccosa* ssp. *californica* is not currently afforded protection under section 404 of the Clean Water Act.

The Corps cannot determine that a project qualifies for a nationwide permit if a federally listed endangered or threatened species may be adversely affected by the proposed project until the Corps has complied with section 7 of the Act (see discussion below under "Available Conservation Measures"). In addition, federally listed species are known to be important to the Nation and its people, and the issuance of further disclaimers would be unlikely upon the listing of the plant as endangered.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Alien, annual grasses and forbs invaded the low-elevation, plant communities of California during the days of the Franciscan missionaries. Today, these grasses, which account for 50 to 90 percent of the vegetative cover (Heady 1977) and can stand up to a meter (3.3 feet) in height (Holland 1986), dominate most grasslands in California. By germinating in late fall prior to native forbs, alien grasses have outcompeted these natives (for nutrients and water) and displaced much of the native flora throughout California. Although vernal pools are "relatively immune" to the competition of alien plants (Zedler 1987), Jokerst (1989) reported that soil disturbance or reductions in the frequency and length of time pool soil is saturated facilitate the invasion of the vernal pool habitat by weedy species. The effect of grazing livestock (see Factor C "Summary of Factors Affecting the Species") in concert with the ubiquitous presence of alien plants on *Limnanthes floccosa* ssp. *californica* needs further study.

Natural fluctuations in rainfall patterns resulting in little to no water in the vernal pools may effect localized extinctions (Jokerst 1989). Though climatic-induced extirpations have not been documented for *Limnanthes floccosa* ssp. *californica*, the small isolated nature of the remaining populations make stochastic extinction more likely. A prolonged drought of several years is the most likely stochastic phenomenon that would result in the localized extinction of a vernal pool plant like the Butte County meadowfoam. In addition, because of the proximity of the subspecies to roads and urban development, Jokerst (1989) reports that garbage dumping, and off-road vehicle use may adversely affect some populations of *Limnanthes floccosa* ssp. *californica*. In light of recent Caltrans survey activity along State Route 149, highway widening or realignment may also threaten portions of three populations.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Limnanthes floccosa* ssp. *californica* in determining to issue this rule. Based on this evaluation, the preferred action is to list *L. floccosa* ssp. *californica* as endangered. At least two populations have been lost due to urbanization in the Chico Area, while 90 percent of a third site has been converted to a rice field. Of the remaining 18 populations of

the Butte County meadowfoam, all are subject to urban development, airport maintenance activities, and/or ag-land conversion. In addition, road widening or realignment, overgrazing by livestock, garbage dumping, off-road vehicle use, competing alien vegetation, and stochastic extinction by virtue of the small isolated nature of the remaining populations threaten the entire range of the subspecies to some degree. Federal listing will provide opportunities for protection of populations from natural and anthropogenic (human-induced) loss and degradation of vernal pools and their associated watersheds.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that determination of critical habitat is not prudent for this species at this time. *Limnanthes floccosa* ssp. *californica* occurs primarily on private land that has been and is subject to urban development and ag-land conversion (see Factor A in "Summary of Factors Affecting the Species"). The vernal pool and ephemeral drainage habitat of the plant is usually small and easily identified. Therefore, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make this plant more vulnerable to incidents of vandalism and could contribute to the decline of the species. A listing of *L. floccosa* ssp. *californica* as endangered also would publicize the rarity of this plant and, thus, could make it attractive to researchers or collectors of rare plants. The proper agencies have been notified of the locations and management needs of this plant. Landowners were notified of this listing action and the importance of protecting habitat of this subspecies. Nonetheless, some landowners reportedly indicated that if the "level of protection gets higher," "they would make attempts to destroy those populations" (Gaylord Enns, pastor, Pleasant Valley Assembly of God, pers. comm., April 25, 1991). Another commenter described one incident where a landowner threatened to disc under any meadowfoam populations on his property (Dole, pers. comm., April 30, 1991). Protection of these species' habitats will be addressed through the recovery process and through the section 7 consultation process. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. Therefore, the Service finds that designation of critical habitat for this plant is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Army Corps of Engineers will become involved with this subspecies through its permitting authority under section 404 of the Clean Water Act. By regulation, nationwide permits may not be issued where a federally listed endangered or threatened species would be affected by the proposed project without first completing formal consultation pursuant to section 7 of the Act. The presence of listed species would highlight the national importance of these resources, thus rendering any disclaimers of jurisdiction unlikely. In addition, if the U.S. Department of Housing and Urban Development proposes to insure housing loans in areas that presently support *Limnanthes floccosa* ssp. *californica*, like the recently discovered population near Pentz, the funding of these loans would be subject to review by the Service under section 7 of the Act. Airport development at Chico Municipal Airport, if proposed, likely would be subject to review and/or approval by the Federal Aviation Administration and, thus, subject to section 7 consultation.

Listing of *Limnanthes floccosa* ssp. *californica* provides for the development of a recovery plan and will bring together State and Federal efforts involving the conservation of the plant. The plan would establish a framework for agencies to coordinate activities and cooperate with each other in their conservation efforts. The plan would set recovery priorities and estimate costs of various tasks necessary to accomplish recovery. It would also describe site-specific management actions needed to achieve conservation and survival of the subspecies.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plant species set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the Butte County meadowfoam, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or to remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Though the seeds of *Limnanthes floccosa* ssp. *californica* likely have high agronomic value (see Factor B "Summary of Factors Affecting the Species"), the Service anticipates that few trade permits would be sought or issued for this species. Requests for copies of the regulations on plants and

inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203–3507 (703/358–2104).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Jim A. Bartel, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Limnanthaceae—False mermaid family:						
Limnanthes floccosa ssp. *californica*.	Butte County meadowfoam	U.S.A. (CA)	E	471	NA	NA
*	*	*	*	*	*	*

Dated: May 18, 1992.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–13253 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 57, No. 110
Monday, June 8, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-74-AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require replacement of the nylon bushings for the C-latches of the forward and rear service/emergency doors. This proposal is prompted by reports that in extremely cold temperatures, the C-latches of the forward and rear service/emergency doors may freeze in their bushings. The actions specified by the proposed AD are intended to prevent the C-latch bushings from being rendered temporarily inoperable, which could prevent an emergency evacuation through the forward and rear service/emergency doors.

DATES: Comments must be received by July 20, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-74-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-74-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-74-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that the nylon bushings of the C-latch mechanisms in the forward and rear service/emergency doors can absorb water and swell, causing a reduction in clearance with the C-latch shaft. In extremely cold temperatures, the C-latches could freeze in their bushings. If uncorrected, this condition could render the doors inoperable and prevent an emergency evacuation through the forward and rear service/emergency doors. (No doors have yet been affected during an actual emergency evacuation.)

Fokker has issued Service Bulletin SBF100-52-039, dated September 17, 1991, which describes procedures for replacement of the C-latch nylon bushings on the forward and rear service/emergency doors with bushings that have a lower water absorption level and increased clearance with the C-latch shaft. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91-116 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of the C-latch bushings on the forward and rear service/emergency doors. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 23 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,520 per airplane. Based on these figures, the

total cost impact of the proposed AD on U.S. operators is estimated to be $272,335. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92–NM–74–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11355, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent the C-latch bushings from being rendered temporarily inoperable, which could prevent the opening of the forward and rear service/emergency doors during an emergency evacuation, accomplish the following:

(a) Within 3 months after the effective date of this AD, remove the existing C-latch mechanisms and bushings of the forward and rear service/emergency doors, and install new C-latch mechanisms and bushings, Modification Kit SBF100–52–039A or SBF100–52–039B, in accordance with Service Bulletin SBF100–52–039, dated September 17, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 19, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service

[FR Doc. 92–13081 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–CE–42–AD]

Airworthiness Directives; FL Aerospace (formerly Janitrol) Models B1500, B2030, B3040 and B4050 Combustion Heaters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have superseded Airworthiness Directive (AD) 82–07–03, which requires repetitive inspections for cracks and operational tests of FL Aerospace Models B1500, B2030, B3040 and B4050 combustion heaters, and repair or overhaul of these heaters if necessary. The proposed action would have retained the requirements of AD 82–07–03, but would have required the actions to be accomplished in accordance with updated service information. Since issuance of the NPRM, the manufacturing and ownership rights of the affected heaters have been transferred, and the Federal Aviation Administration (FAA) has become aware of other methods of accomplishing the actions of AD 82–07–03 that need to be further evaluated. The FAA has determined that, while these other methods are being evaluated, accomplishment of the actions required by AD 82–07–03 will continue to prevent the possibility of a fire igniting or carbon monoxide leaking into the cabin because of a cracked or defective heater. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Mr. Will Trammell, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would be applicable to certain FL Aerospace Models B1500, B2030, B3040, and B4050 combustion heaters was published in the **Federal Register** on May 24, 1991 (56 FR 23818). The action proposed superseding AD 82–07–03, Amendment 39–4354 (47 FR 13788, April 1, 1982), with a new AD that would: (1) Retain the repetitive inspections of the combustion heaters for cracks and the repair if cracks are found that are required by AD 82–07–03; and (2) would require these actions in accordance with new service information.

Since issuance of this NPRM, the manufacturing and ownership rights of the affected heaters have been transferred from the FL Aerospace Corporation to CD Airmotive Products. In addition, the FAA has become aware of other methods of accomplishing the actions of AD 82–07–03 that need to be further evaluated.

The FAA has determined that, while the evaluation is being conducted, accomplishment of the actions required by AD 82–07–03 will continue to prevent carbon monoxide from leaking into the cabin area because of a cracked heater. Accordingly, the proposed rule is withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. 90–CE–42–AD, published in the **Federal Register** on May 24, 1991 (56 FR 23818), is withdrawn.

Issued in Kansas City, Missouri, on May 29, 1992.

Larry D. Malir,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–13173 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANE–26]

Proposed Amendment to Transition Area; Rangeley, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise the Rangeley, Maine Transition Area by correcting the longitude and latitude references for the Rangeley Municipal Airport and the Rangeley NDB and by changing statute mile distances to nautical miles. This proposal is prompted by a geographic survey of the Rangeley Transition Area conducted by the National Flight Data Center, and by the conversion of the lateral unit of measurement used to define transition areas from statue miles to nautical miles. This action is necessary to keep the description of the Rangeley Transition Area operationally current.

DATES: Comments must be received on or before July 8, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, New England Region, Docket No. 92–ANE–26, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299.

The Official Docket may be examined in the Office of the Assistant Chief Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299, weekdays, except Federal holidays, between the hours of 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Rick Miller, System Management Branch, ANE–530, Federal Aviation Administration, Burlington, MA 01803–5299; Telephone: (617) 273–7146.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANE–26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this NPRM by submitting a request to the Office of the Assistant Chief Counsel, ANE–7, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to update the description of the Transition Area for Rangeley, Maine. This proposed action is the result of a geographic survey conducted by the National Flight Data Center (NFDC) as applied to the airspace surrounding Rangeley Municipal Airport, Rangeley, ME. Based on that survey the FAA has determined that corrections are necessary to the latitude and longitude references for the Rangeley Municipal Airport and the Rangeley NDB. In addition, the FAA has revised the criteria used to define transition areas as part of an overall review and reclassification of terminal airspace. The revised criteria include converting the lateral unit of measurement for transition areas from statue miles to nautical miles. Based on those new criteria, the FAA proposes to change the description of the Rangeley Transition Area by using nautical miles instead of statue miles. The net effect of this proposal is to increase slightly the radius of the Rangeley Transition Area. This amendment is necessary to keep the description of the Rangeley Transition Area operationally current. The description of the transition area is published in § 71.181 of FAA Order 7400.7, dated November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The FAA has determined that this proposed regulation involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities under the Criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.181. Transition Areas

* * * * *

ANE ME TA Rangeley, ME

That airspace extending upward from 700 feet above the surface within 6.3 nautical miles of the center of the Rangeley Municipal Airport, Rangeley, Maine (lat. 44°59'30", long. 70°39'51" W.), and that airspace within 2.8 nautical miles on each side of the Rangeley NDB 226° bearing from the Rangeley NDB (lat. 44°56'04" N., long. 70°45'06" W.) extending southwest from the 6.3-mile radius area to 8.6 nautical miles southwest of the Rangeley NDB.

* * * * *

Issued in Burlington, Massachusetts, on May 27, 1992.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 92-13301 Filed 6-5-92; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 165

[CGD1 92-052]

Safety Zone: Sippican Harbor, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in Sippican Harbor, Marion, MA, during the Marion Fourth of July fireworks display. The safety zone will cover the area of Sippican Harbor along the Silver Shell Beach shoreline out to 400 yards east of the shoreline and is necessary to protect pleasure craft and personnel aboard these vessels from injury due to potential hazards associated with the fireworks.

DATES: Comments must be received on or before June 23, 1992.

ADDRESSES: Comments should be mailed to the Commanding Officer, Marine Safety Office Providence, John O'Pastore Federal Building, Providence, RI, 02903-1790, or may be delivered to room 217 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (401) 528-5335. The Marine Safety Office maintains a public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 217, Marine Safety Office Providence.

FOR FURTHER INFORMATION CONTACT: LTJG Tina Burke, Marine Safety Office Providence, (401) 528-5335.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 92-052) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under **"ADDRESSES."** If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are LTJG T. Burke, Project Manager, and LCDR J. Astley, Project Counsel, District Legal Office.

Background and Purpose

On July 4, 1992, the town of Marion, Masschusetts, plans to sponsor a Fourth of July Fireworks display between the hours of 8 p.m. and 10 p.m. The fireworks will be launched from a site on Silver Shell Beach and will project onto the waters of Sippican Harbor. The sponsor notified the Coast Guard of this event on April 28, 1992. Approximately 200 spectator vessels are expected to attend the event. The fireworks display is necessary to allow the city of Marion and the public to celebrate Independence Day.

A safety zone is needed to prohibit spectator vessels from transiting or anchoring in the area of Sippican Harbor over which the fireworks will be launched, in order to protect these vessels and the persons onboard from sparks and falling debris. The Coast Guard proposes to establish this safety zone from the shoreline of Silver Shell Beach, extending eastward 400 yards into Sippican Harbor, between the hours of 8 p.m. and 10 p.m. on July 4, 1992.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. The Coast Guard expects the economic impact of this proposal to be minimal because these regulations will be in effect for only a short period, specifically for two hours on one day. The entities most likely to be affected are pleasure craft wishing to view the fireworks from the water. These vessels will still be able to view the fireworks from the water but will be required to do so at a distance more than 400 yards from the shoreline, which will not cause them undue hardship.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation, the Coast Guard expects the impact to be minimal on all entities. Therefore, the Coast Guard certificates under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a commit (see **"ADDRESSES"**) explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism

The Coast Guard has analyzed this proposal in accordance with the the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not

have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concludes that under section 2.B.2.C of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–6, and 160.5.

2. A new § 165.T01–052 is added to read as follows:

§ 165.T01–052 Safety Zone: Sippican Harbor, MA.

(a) *Location.* The following area is a safety zone:

From the shoreline of Silver Shell Beach, extending eastward 400 yards into Sippican Harbor.

(b) *Effective Date.* This regulation becomes effective at 8 p.m. on July 4, 1992. It terminates at 10 p.m. on July 4, 1992, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply.

Dated: June 1, 1992.

H.D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.

[FR Doc. 92–13349 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD1 92–050]

Safety Zone; New Bedford Harbor, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in New Bedford Harbor, New Bedford, MA. in the main ship channel, south of the New Bedford-Fairhaven Bridge in the vicinity of New Bedford Channel lighted buoy 16, during the New Bedford Fourth of July fireworks display. This safety zone is necessary to protect vessels in the vicinity of the display and personnel aboard these vessels from injury due to potential hazards associated with the fireworks.

DATES: Comments must be received on or before June 23, 1992.

ADDRESSES: Comments should be mailed to the Commanding Officer, Marine Safety Office Providence, John O'Pastore Federal Building, Providence, RI, 02903–1790, or may be delivered to room 217 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (401) 528–5335. The Marine Safety Office maintains a public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 217, Marine Safety Office Providence.

FOR FURTHER INFORMATION CONTACT: LTJG Tina Burke, Marine Safety Office Providence, (401) 528–5335.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 92–050) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are LTJG T. Burke, Project Manager, and LCDR J. Astley, Project Counsel, District Legal Office.

Background and Purpose

On July 4, 1992, the town of New Bedford, Massachusetts, plans to sponsor a Fourth of July fireworks display between the hours of 7 p.m. and 10 p.m. The fireworks will be launched from a barge anchored in the vicinity of New Bedford Channel lighted buoy 16. The sponsor notified the Coast Guard of this event on May 22, 1992. Approximately 200 spectator vessels are expected to attend the event. The fireworks display is necessary to allow the city of New Bedford and the public to celebrate Independence Day.

A safety zone is needed to prohibit vessels from transiting or anchoring in the area of New Bedford Harbor over which the fireworks will be launched, in order to protect them from personal injury, fire, or other damage as a result of stray projectiles or hot/burning falling debris. The Coast Guard proposes to establish this safety zone in the area within a 350 yard radius around the fireworks barge. The zone will be in effect between the hours of 7 p.m. and 10 p.m. on July 4, 1992 and will effectively close New Bedford Channel to all vessel traffic during this period.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. The Coast Guard expects the economic impact of this proposal to be minimal because these regulations will be in effect for only a short period, specifically for three hours on one day. The entities most likely to be affected are pleasure craft wishing to view the fireworks from the water as well as fishing vessels wishing to transit the area. Spectator vessels will still be able to view the fireworks from the water but will be required to do so at a distance more than 350 yards from the barge, which will not cause them undue hardship. Fishing vessels will be prohibited from transiting through the area while the zone is in effect. This will not have a significant economic impact on them because of the short duration of the zone. In addition, most of the fishermen who work out of New Bedford expect and are aware that the fireworks and accompanying safety zone will be in place the evening of July 4 because the fireworks display is an annual event. This awareness, along with the short

duration of the zone, makes the hardship minimal for these fishing vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation, the Coast Guard expects the impact to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a commit (see "ADDRESSES"] explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concludes that under section 2.B.2.C of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–6, and 160.5.

2. A new § 165.T01–050 is added to read as follows.

§ 165.T01–050 Safety Zone: New Bedford Harbor, MA.

(a) Location: The following area is a safety zone:

A 350 yard radius around the deck barge anchored in New Bedford Channel in the vicinity of New Bedford Channel lighted buoy 16, approximately 300 yards south of the New Bedford-Fairhaven Bridge, New Bedford Harbor, MA.

(b) Effective Date: This regulation becomes effective at 7 p.m. on July 4, 1992. It terminates at 10 p.m. on July 4, 1992, unless terminated sooner by the Captain of the Port.

(c) Regulations: The general regulations governing safety zones contained in § 165.23 apply.

Dated: June 1, 1992.

H. D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.

[FR Doc. 92–13350 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 92–117; FCC No. 92–215]

Administrative Practice and Procedure-Tariffs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the Commission's rules to require that petitions seeking investigation, suspension, or rejection of a tariff filing made on 14 days' notice be filed within six calendar days after the date of the tariff filing; a carrier's reply to such a petition for relief from a tariff filing must be filed within three calendar days after service of the petition. This notice also proposes to count intermediate holidays in calculating both the six-day and three-day filing periods and to require that petitions and replies be personally served on all parties.

DATES: Comments must be filed on or before July 23, 1992 and reply comments on or before August 7, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jodie Donovan, tel: 202–632–6917.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

Reason for action. The Commission is issuing this Notice of Proposed Rulemaking to seek comment regarding adjustment of the pleading cycle for petitions to investigate, suspend, or reject tariffs filed with the Commission on 14 days' notice.

Objectives. The objective of this Notice of Proposed Rulemaking is to provide the Commission additional time to review petitions against tariffs filed on 14 days' notice.

Legal Basis. Sections 1, 4(i), 4(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 303(r).

Description, potential impact, and number of small entities affected. The proposed amendments to § 1.773 of the Commission's Rules, 47 CFR 1.773, mandate that petitions to investigate, suspend, or reject a tariff filing made on 14 days' notice be filed within six calendar days after the date of the tariff filing. The carrier's reply to these petitions must be filed within three calendar days after the petition is served. Intermediate holidays are counted during both filing periods. The amendments also require the petition and reply to be personally served on all parties. Small entities should experience no significant impact from this minor rule adjustment. Reporting, recordkeeping, and other compliance requirements. The proposed rules impose no new reporting requirements and no new recordkeeping requirements.

Federal rules which overlap, duplicate, or conflict with the Commission's proposal. None.

Any significant alternatives minimizing impact on small entities and consistent with stated objectives. None.

Comments are solicited. We request written comments on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on other issues in this Notice of Proposed Rulemaking, but they must have a separate and distinct heading designating them as Responses to this Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice to the Chief Counsel for

Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act. See 5 U.S.C. 601, et seq.

Ex Parte Requirements

This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Accordingly, *It is ordered* That notice is hereby given of the proposed regulatory changes described above, and that comment is sought on these proposals.

It is further ordered That pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, comments shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554 on or before July 23, 1992. Reply comments shall be filed no later than August 7, 1992. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Tariff Division, Common Carrier Bureau, room 518, 1919 M Street, NW., Washington, DC. Parties should also file one copy of any documents filed in this docket with this Commission's copy contractor, Downtown Copy Center, room 246, 1919 N Street NW., Washington, DC.

It is further ordered That the Secretary shall mail a copy of this Notice of Proposed Rulemaking to be the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects for 47 CFR Part 1

Administrative practice and procedure-tariffs.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendments to the Commission's Rules

Part 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

2. Section 1.4 is amended by revising paragraph (g) introductory text to read as follows:

§ 1.4 Computation of time.

* * * * *

(g) Unless otherwise provided (e.g. § 1.773 of the rules), if the filing period is less than 7 days, intermediate holidays shall not be counted in determining the filing date.

* * * * *

3. Section 1.773 is amended by revising paragraph (a)(1), the first sentence of paragraph (a)(1)(i) and (a)(2); redesignating paragraphs (a)(2)(i) through (ii) as paragraphs (ii) through (iv) and revising them; then adding new paragraph (a)(2)(i); adding paragraph (a)(4); redesignating paragraphs (b)(1)(i) through (iv) as (ii) through (v) and revising redesignated paragraphs (b)(1)(ii) through (iv) and the last sentence of redesignated paragraph (b)(1)(v); then adding new paragrph (b)(1)(i); and revising paragraph (b)(2) and (c) to read as follows:

§ 1.773 Petitions for suspension or rejection of new tariff filings.

(a) *Petition*—(1) *Content.* Petitions seeking investigation, suspension or rejection of a new or revised tariff filing or any provision thereof shall specify its Federal Communications Commission tariff number and carrier transmittal number, the items against which protest is made, and the specific reasons why the protested tariff filing warrants investigation, suspension, or rejection under the Communications Act. No petition shall include a prayer that it also be considered a formal complaint. Any formal complaint shall be filed as a separate pleading as provided in § 1.721.

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communication Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants investigation, suspension, or rejection. * * *

* * * * *

(2) *When filed.* All petitions seeking investigation, suspension, or rejection of a new or revised tariff filing shall meet the filing requirements of this paragraph. * * *

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 6 days after the date of the tariff filing.

(ii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 7 days after the date of the tariff filing.

(iii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be filed and served within 15 days after the date of the tariff filing.

(iv) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 90 or more days notice shall be filed and served within 25 days after the date of the tariff filing.

* * * * *

(4) *Copies, Service.* An original and 4 copies of each petition shall be filed with the Commission and separate copies served simultaneously upon the Chief, Common Carrier Bureau, and the Chief, Tariff Division. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be personally served on the filing carrier. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 15 or more days notice may be served on the filing carrier by mail.

(b)(1) * * *

(i) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 3 days after service of the petition.

(ii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 4 days after service of the petition.

(iii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be filed and served within 5 days after service of the petition.

(iv) Replies to petitions seeking investigation, suspension or rejection of a new or revised tariff filing made on 90 or more days notice shall be filed and served within 8 days after service of the petition.

(v) * * * The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (a)(2)(i)-(iv) of this section, and the date on which the consolidated reply is due will be governed by (b)(1)(i)-(iv) of this section.

(2) *Computation of time.* Intermediate holidays shall be counted in determining the 3-day filing date for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice. Intermediate holidays shall not be counted in determining filing dates for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 15 or more days notice. When a petition is permitted to be served upon the filing carrier by mail, an additional 3 days (counting holidays) may be allowed for filing the reply. If the date for filing the reply falls on a holiday, the reply may be filed on the next succeeding business day.

(c) *Copies Service.* An original and 4 copies of each reply shall be filed with the Commission and separate copies served simultaneously upon the Chief, Common Carrier Bureau, and the Chief, Tariff Division. Replies responding to a new or revised tariff filing made on less than 15 days notice shall be personally served on the petitioner. Replies responding to a new or revised tariff filing made on 15 or more days notice may be served on petitioner by mail.

[FR Doc. 92-13140 Filed 6-5-92; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92-27; Notice 1]

RIN 2127-AE41

Federal Motor Vehicle Safety Standards; Wheel Nuts, Wheels Discs, and Hub Caps

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal Motor Vehicle Safety Standard No. 211, *Wheel Nuts, Wheel Discs, and Hub Caps*, currently prohibits wheel nuts, wheel discs, and hub caps that incorporate "winged projections." The purpose of the prohibition is to protect pedestrians and cyclists. This notice implements the agency's granting of a petition for rulemaking to amend the standard to permit wheel nuts, wheel discs and hub caps with winged projections if, when the wheel nuts, wheel discs or hub caps are installed on a wheel rim, the projections do not extend outward beyond the plane tangent to the outside of the wheel rim.

DATES: Comments must be received on or before August 7, 1992.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, room 5109, NHTSA, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Gill, Office of Vehicle Safety Standards, Office of Rulemaking, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Ms. Gill's telephone number is (202) 366-6651.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 211, Wheel Nuts, Wheel Discs, and Hub Caps (49 CFR 571.211), was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards. Except for the addition of a note that clarified the term "wheel nut" in 1969, Standard No. 211 has remained unchanged since its issuance. Since Standard No. 211 applies to motor vehicles and motor vehicle equipment, both vehicle manufacturers and manufacturers of motor vehicle equipment must comply with Standard No. 211. Standard No. 211 currently prohibits wheel nuts, wheel discs, and hub caps (referred to hereafter as "hub caps") that incorporate "winged projections." This prohibition applies to all hub caps with winged projections, regardless of the size of the projections and regardless of how far outward they jut when the hub cap is installed on any wheel on which it is or can be mounted.

Petition for Rulemaking

By petition dated September 3, 1991, Consolidated International Automotive, Inc., Dayton Wheel Products, and Gorilla Automotive Products (petitioners) petitioned the agency to amend Standard No. 211. Petitioners seek amendments to clarify and make more objective the provisions of the standard and to allow the manufacture and installation of some types of hub caps that may be prohibited under the existing language of the standard. Petitioners asserted that the record contains no evidence substantiating any safety related hazards associated with the motor vehicle equipment regulated by Standard No. 211. To bolster this position, the petitioners enclosed the results of a survey of automotive parts wholesale and retail establishments, that showed no reports of injuries resulting from hub caps incorporating winged projections. Petitioners further stated that since the agency provides no guidance as to what constitutes a "winged projection," it is difficult to discern what types of equipment are prohibited by the standard. Petitioners therefore petitioned for the standard to be amended so that it does not prohibit the manufacture and installation of hub caps with "winged projections" that, when installed, "do not extend beyond the outermost plane of the wheel."

Agency Grant of Petition and Notice of Proposed Rulemaking

On December 2, 1991, the agency granted petitioners' petition for rulemaking. This notice implements that grant by proposing to amend Standard No. 211 to permit wheel nuts, wheel discs, and hub caps incorporating "winged projections" that, when installed, "do not extend beyond the outermost plane that is tangent to the outboard edge of the wheel rim."

As previously noted, since the 1967 issuance of Standard No. 211, all hub caps incorporating winged projections, regardless whether they are recessed so that they do not extend beyond the outermost edge of the wheel, have been prohibited by the standard. The ageny has reexamined the safety need to prohibit winged projections that are recessed. In doing so, the agency has examined available information provided by the petitioners and by other sources. As previously noted, in investigating possible injuries connected with winged projections, petitioners surveyed approximately 1,500 major automotive parts wholesale and retail establishments to determine whether there have been any reports of accidents involving hub caps incorporating winged projections. Out of the 194 responses received, none of the respondents reported winged projection-related accidents or injuries. The results of this survey are available for review at the docket number cited at the beginning of this notice.

In addition, the agency has received accident data sources to determine the extent of injuries involving winged projections. Pedestrians, motorcyclists, and bicyclists are potentially at risk from injuries resulting from contact with hub caps incorporating winged projections. The agency's analysis is based on a review of accident data files from the Pedestrian Injury Causation Study (PICS), the National Accident Sampling Systems (NASS), and complaints to NHTSA's Office of Defects Investigation.

1. Pedestrian Injury Causation Study (PICS)

The PICS accident data file was used to determine the number, type, and severity of reported pedestrian injuries caused by contact with vehicle wheels, wheel covers, wheel nuts, wheel discs, and hub caps. PICS accident data contain information gathered through an in-depth review of approximately 2,000 urban pedestrian accidents as they were reported to have occurred in five major United States metropolitan areas. These accidents were reported to have occurred from September 1979 to March 1980. All pedestrian accidents reported in these five areas during the stated time period were reviewed.

Although the PICS data file is not nationally representative, the data suggest that wheel covers were not a serious pedestrian hazard during the time period in which the accident data were collected. The majority of pedestrian accidents involve frontal impacts. Side impacts, which would include any contact with hub caps, account for just over 20 percent of the accidents. Injuries resulting from side pedestrian impacts are far less severe than those resulting from frontal impacts.

The PICS data file indicates that the number of pedestrian injuries resulting from hub caps contacts is low. Out of approximately 2000 cases investigated, no cases of pedestrian injury from contacts with wheels without hub caps or wheels with custom hub caps were reported. Contacts with wheels with standard hub caps accounted for only four pedestrian injuries.

The next phase of the accident data analysis involved determining the number of injuries resulting from contact with vehicle components located close to the wheels, primarily the front and rear fenders. The number of injuries of this type may be significant because it indicates the potential for wheel and hub cap injuries if hub caps are allowed to protrude too far outboard of the wheel. There were 125 PICS cases in which a pedestrian received an injury from front fender contact and 25 cases involving the rear fender. This unweighted data, taking into account only incidents reported in the five areas, indicates that about 10 percent of the reported accident victims in the PICS file (200 fender injury cases out of a total of approximately 2000 reports) were injured by vehicle components located close to the wheels. The weighted data, that take into account possible statistical aberrations that may be caused by reviewing reports from only five areas, produce very similar results: an estimated 9 percent of the most serious pedestrian injuries in the PICS sample area were caused by these contacts. It may be argued that these pedestrians are potential victims of wheel and hub cap injuries, if any of those components protrude out as far as the fender.

2. National Accident Sampling Systems (NASS)

The 1982–1986 NASS average annual estimates indicate that tire and wheel injuries account for an estimated 4.2 percent of NASS pedestrian injuries and 1.1 percent of pedalcyclist injuries during these five years. Using the computerized file, the agency cannot separate the injuries caused by wheels alone from those caused by either the tire or wheel.

Based on a review of individual cases, the agency determined that the "wheel" could be identified as the source of the injury in only a few cases. Moreover, it appears that the investigator was actually referring to the "wheel" in only one or two of these few cases. In the other cases, the investigator appeared to be utilizing the term "wheel" interchangeably with "tire." For those injuries caused by the tire, most occurred when the pedestrian made contact with the side of the vehicle and a foot or leg made contact with the tire.

3. Reports to NHTSA Office of Defects Investigation

The agency reviewed approximately 1,000 consumer complaints, classified as problems potentially related to Standard No. 211, filed with the NHTSA Office of Defects Investigation. The complaints were from the period beginning January 1, 1981 and continuing to the present. An examination of the allegations in these complaints did not disclose that any of the consumers were injured because of "winged projections" extending from hub caps.

The data set forth above do not indicate that since 1979, significant injury has been caused to pedestrians or cyclists as a result of accidental contact with wheels or hub caps. Based on this, the agency tentatively concludes that safety would not be compromised by amending Standard No. 211 so that it permits wheel nuts, wheel discs and hub caps with winged projections if, when the wheel nuts, wheel discs or hub caps are installed on a wheel rim, the projections do not extend outward beyond the plane tangent to the outside of that wheel rim. For greater clarity as to what the agency deems permissible, the agency also proposes to adopt two graphics, one depicting a "winged projection" and another depicting winged projections that do not extend beyond the plane specified above.

Effective Date

Because the proposed changes to Standard No. 211 would relieve restrictions without compromising safety, the agency tentatively has determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the **Federal Register**.

The proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

1. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The agency has analyzed the economic and other effects of this proposal and determined that they are neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This proposed rule would impose no additional requirements but would permit manufacturers greater design flexibility by relieving a restriction. Further, any cost impacts would be so slight they cannot be quantified. Since the effects of the proposal, if adopted as a final rule would be so minimal, a full regulatory evaluation is not required.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this proposed action on small entities. Based upon this evaluation, I certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that the proposed rule, if made final, would have only a

small beneficial effect on small importers and dealers of motor vehicle equipment by relieving restrictions on the sale of certain wheel nuts, wheel discs, and hub caps incorporating winged projections. Accordingly, an initial regulatory flexibility analysis has not been prepared.

3. Executive Order 12612 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. National Environmental Policy Act

The agency also has analyzed this rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment.

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposals will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the following, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. S3 would be revised to read as follows:

§ 571.211 Standard No. 211; wheel nuts, wheel discs, and hub caps.

* * * * *

S3. *Definitions.*

S3.1 *Wheel nut* means an exposed nut that is mounted at the center or hub of a wheel. It does not include any of the ordinary small hexagonal nuts that secure a wheel to an axle, and that are normally covered by a hub cap or wheel disc.

S3.2. *Winged projection* means any exposed cantilevered appendage that projects radially from a wheel nut, wheel disc or hub cap and that typically has front, edge, and/or rear surfaces which are not in contact with the wheel when the wheel nut, wheel cover or hub cap is installed on the axle. Figure 1 shows an example of a "winged projection."

* * * * *

S4 would be added to read as follows:

* * * * *

S4. *Requirements.* As installed on any physically compatible combination of axle and wheel rim, wheel nuts, wheel discs, and hub caps for use on passenger cars and multipurpose passenger vehicles shall not incorporate winged projections that extend beyond the plane that is tangent to the ouboard edge of the wheel rim at all points around its circumference. Figure 2 shows that plane.

* * * * *

4. The paragraph entitled "NOTE:" at the end of Standard No. 211 would be removed.

5. Figures 1 and 2 would be added at the end of Standard No. 211.

Issued on: June 1, 1992.

Barry Felrice,

Associate Administrotor for Rulemoking.

[FR Doc. 92-13161 Filed 6-5-92; 8:45 am]

BILLING CODE 4910-59-M

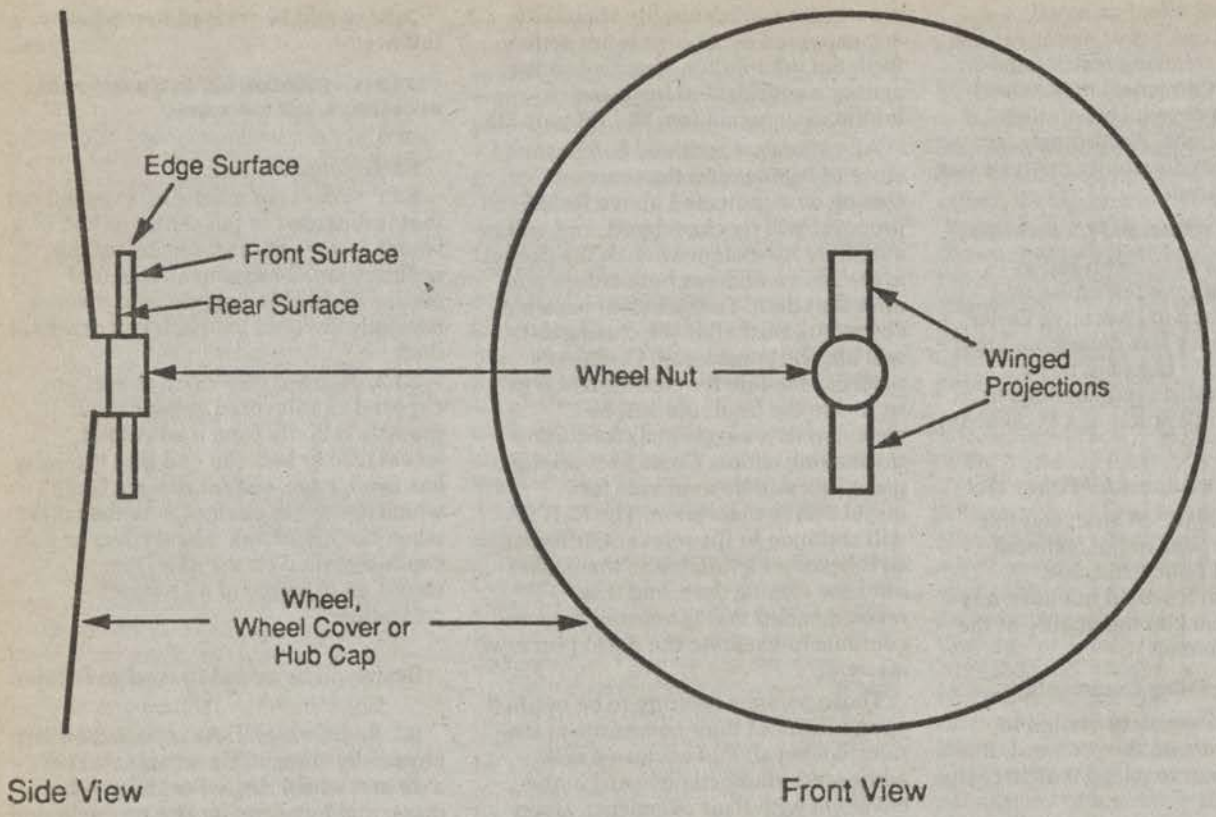


Figure 1 — Depiction of Winged Projection

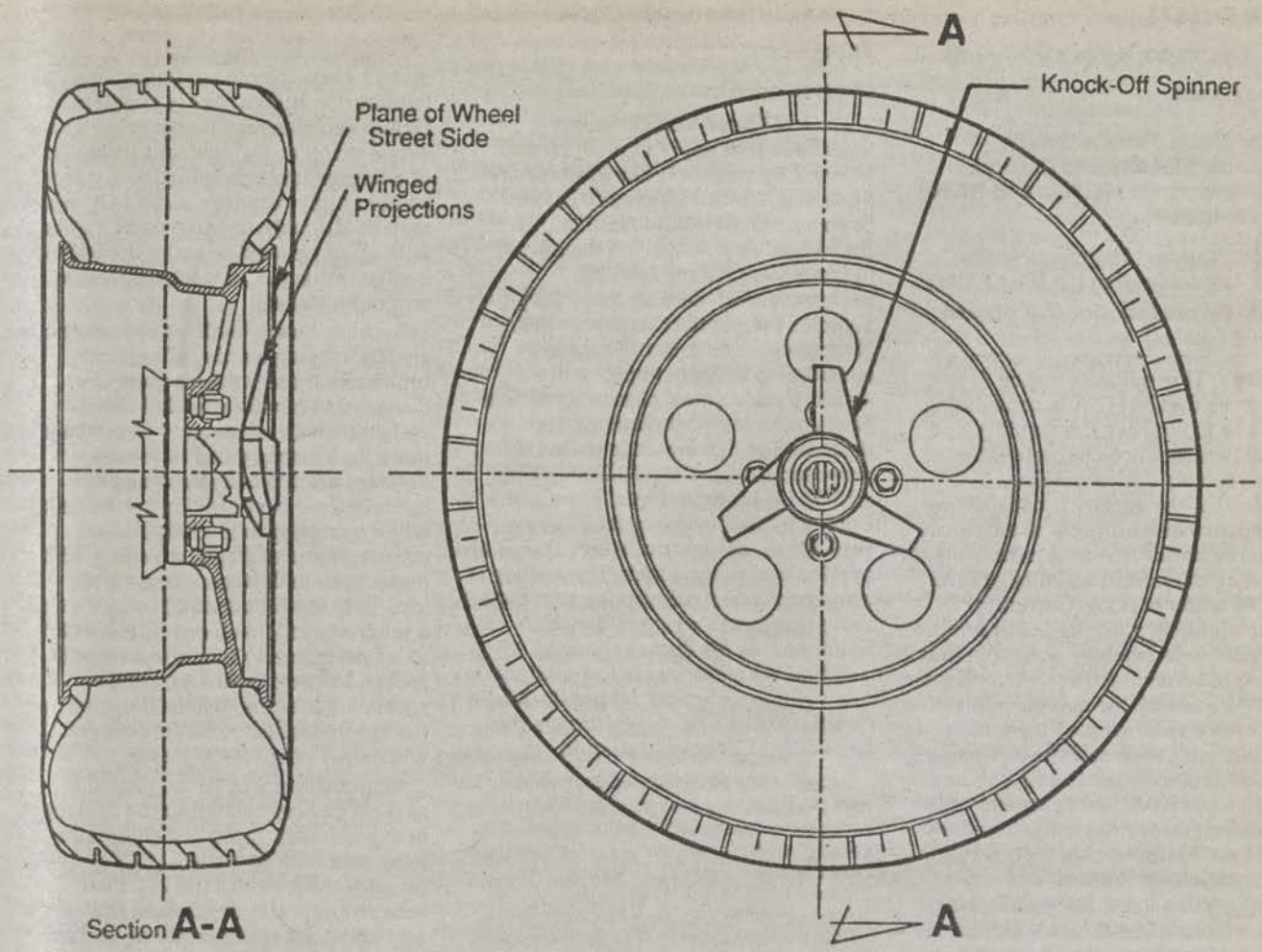


Figure 2 — Winged Projections Shall Never Extend Beyond Plane of Wheel

BILLING CODE 4910-59-C

49 CFR Part 571

[Docket No. 92-29; Notice 1]

RIN 2127-AA00

Federal Motor Vehicle Safety Standards; Stability and Control Requirements for Medium and Heavy Duty Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice announces that NHTSA is considering measures to improve the stability and control performance characteristics of heavy vehicles during braking. Specifically, the agency is considering the issuance of a proposal to establish additional performance requirements for improving the lateral stability of such vehicles while braking. Currently, antilock braking systems (ABS) are the only reliable technology available that is capable of achieving these performance goals. As a result, the agency notes that some heavy vehicles may have to be equipped with such systems or similarly performing equipment in order to be stably stopped. While the agency was formulating this rulemaking, Congress passed the Motor Carrier Act of 1991 which directs the Secretary of Transportation to initiate rulemaking about, among other things, antilock brake systems on new commercial motor vehicles. The agency seeks comments and information on the extent to which such measures would affect safety by improving heavy vehicle braking performance, as well as information about the costs and any potential negative effects of implementing rules that would have the practical effect, in many cases, of requiring this type of equipment. This notice is one part of a comprehensive effort by the agency to improve the braking performance of heavy vehicles.

DATES: Comments on this notice must be received on or before August 7, 1992.

ADDRESSES: All comments on this notice should refer to the docket and notice number and be submitted to the following: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-5892.

SUPPLEMENTARY INFORMATION:

Background

Overview of Notice

Federal Motor Vehicle Safety Standards that apply to medium and heavy duty vehicle brake systems are Standard No. 105, Hydraulic Brake Systems and Standard No. 121, Air Brake Systems. As part of the agency's plans to improve the braking performance of medium and heavy duty vehicles (hereinafter referred to as "heavy vehicles"), the agency is considering ways to improve the stability and control characteristics of heavy vehicles while braking, as discussed in this advance notice of proposed rulemaking (ANPRM). This ANPRM is prompted by the problems caused by the tendency for heavy vehicles to lose control when brakes are applied and wheels lock. The agency is also considering rulemaking to reinstate and establish stopping distance requirements for these vehicles.

While the agency was formulating this rulemaking, Congress passed the Motor Carrier Act of 1991 which directs the Secretary of Transportation to

> initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles (i.e., those vehicles with a gross vehicle weight rating of 26,001 or more pounds), including truck tractors, trailers, and their dollies. Such a rulemaking shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. (section 4012)

The Act requires that the rulemaking be consistent with the Motor Carrier Safety Act of 1984 (49 U.S.C. 2519(b)) and be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381).

Among the issues discussed in this advance notice are the occurrence of loss-of-control crashes; the availability and performance of components or systems to improve lateral stability and steering control under all conditions of braking and vehicle load; potential regulatory approaches to improve the lateral stability and steering control of heavy vehicles during braking, including anticipated performance requirements and test procedures; a schedule for implementing requirements to maximize the benefits and minimize the costs of lateral stability and steering control requirements; diagnostic equipment and other methods to ensure in-use functioning of the systems employed to meet any of the standards that might be proposed; and anticipated cost considerations of such requirements.

Brake Designs and Equipment

Designing braking systems for the many heavy vehicle configurations and loading conditions is very complex. Heavy vehicles may be operated as a single unit (i.e., a single unit truck), part of a tractor trailer combination, a longer combination vehicle (e.g., an LCV which may be a double or triple combination with up to nine axles), or in the bobtail configuration (i.e., a tractor operated without a trailer).

Because heavy vehicles operate under greatly varying loading situations, brakes for these vehicles must be designed to handle vehicle loaded weights which range up to three times more than empty weights. Heavy vehicles are typically designed to achieve their best braking performance when operating in the fully loaded condition. Accordingly, a vehicle with a brake system designed to operate ideally in the fully loaded condition has a tendency to lockup one or more of its axles prematurely (i.e., one axle will lockup before other axles achieve maximum braking) when operating in the lightly loaded condition, especially when operating on slippery roads.

Manufacturers have developed several devices related to the braking of heavy vehicles, including automatic from axle limiting valves (ALVs), bobtail proportioning valves (BPVs), load-sensing proportioning valves (LSVs), and antilock braking systems (ABS).

ALVs automatically limit the amount of braking pressure applied at steering axle brakes. They are typically installed to allay the concern of some drivers about loss of steering control during hard braking, which may result from wheel lockup. However, as the test data explained below indicate, these valves can actually compromise stopping performance, especially when lightly loaded or empty vehicles operate on slippery roads because the front axle brakes are not doing their share of the braking. With the ALV installed, lockup of the drive axles occurs at a lower rate of deceleration. Thus drivers must apply the brakes lightly when stopping the vehicle under these conditions, or the drive axle brakes will lock, causing the vehicle to become unstable. As a result of the light brake application, stopping distances increase. Accordingly, the use of ALVs may be contrary to the agency's long-range goal of improving stopping performance.

BPVs automatically reduce brake application pressure to the drive axles of a truck tractor when it is operating bobtail, thereby allowing greater use of the vehicle's, steering-axle braking

power. By automatically apportioning more brake pressure to the steering axle, the likelihood of premature drive-axle wheel lockup and loss-of-control is reduced. As a result, stopping performance is enhanced. The agency's long-range goal is to promulgate performance requirements for shorter stopping distances. Given the potential safety problems resulting from the significantly longer stopping distances for truck tractors in the bobtail configuration, the use of BPVs would be encouraged.

LSVs function by mechanically sensing drive-axle suspension deflection that results from cargo load. When the load is low on the drive-axle (i.e., the vehicle is operating lightly loaded or empty), brake proportioning is changed to apportion more of the braking to the steering axle. Because of problems keeping the device calibrated and maintained properly, most U.S. manufacturers do not equip vehicles with these devices.

ABS automatically controls the amount of braking pressure applied to a wheel so as to prevent wheel lock, thus increasing stability and control in emergency stops by preventing skidding, spinouts, and jackknifes. Vehicles equipped with ABS also usually have shorter stopping distances compared to the same vehicle without ABS, particularly on low mu surfaces.

Devices That Improve Lateral Stability and Steering Control During Braking

All of these devices discussed above can affect the lateral stability and steering control of vehicles during braking. At this time, electronic ABS, as discussed below, appears to be the most reliable method of preventing loss of stability and steering control. LSVs can reduce the likelihood of premature wheel lockup by mechanically sensing drive-axle suspension deflection that results from cargo load and adjusting brake proportion based on different loading conditions, but ultimately they cannot totally prevent lockup if brakes are applied hard enough under some operating conditions. Likewise, BPVs reduce the likelihood of premature drive-axle wheel lock-up by allowing the steer-axle to do more of the braking work when a truck tractor is operating bobtail; nevertheless, they also cannot totally prevent wheel lockup. Finally, loss-of-control crashes also could be reduced by eliminating Automatic Limiting Valves (ALVs). These devices increase the likelihood of drive-axle and trailer lock-up because front axles do not do their share of the braking, and therefore drivers must apply brakes harder to stop the vehicle. In addition, jackknifing of articulated vehicles can be controlled at the articulation point, by physically constraining the two units in the combination from articulating through the use of anti-jackknife devices. However, this approach does not provide the driver steering control of the vehicle, nor does it influence brake system performance. Because this approach only treats the symptoms of poor braking performance, wheel lock-up is still possible. If the vehicle is on a curved road when this occurs, the vehicle will typically leave the roadway. Since these devices do not affect a vehicle's braking performance, they have not been considered as the technology that would likely be used in response to this rulemaking effort.

ABS helps prevent loss of control situations by automatically controlling the amount of braking pressure applied to a wheel. With these systems, the Electronic Control Unit (ECU) monitors wheel-speeds, and changes in wheel-speeds, based on electric signals transmitted from sensors located at the wheels or within the axle housings. If the wheels start to lock, the ECU signals a modulator control valve to actuate, thereby reducing the amount of braking pressure applied to the wheel that is being monitored. As a result, these devices ensure stability and control by preventing wheel lockup and loss of control. When operating at loads significantly below the fully loaded condition or on slippery road conditions, vehicles equipped with ABS usually obtain shorter stops because braking efficiency is enhanced.

There are several types of ABS configuarations which are available for most common heavy vehicles on the road today. In order of decreasing complexity and cost, system for tractors include those with individual wheel control, side-to-side control, axle-by-axle control, and drive-axle-only systems, and tandem control systems. With individual wheel control—the most complicated and costly ABS—each of the brakes on a tractor trailer combination is individually monitored and controlled using wheel-speed sensors and control valves for each wheel. With side-to-side control, each front brake is individually controlled, while each pair of brakes on each side of the tractor drive and trailer tandem-axle sets is controlled by an individual valve. With axle-by-axle control, each axle is controlled by an individual valve. With drive-axle-only and tandem control, all four brakes on the tandem drive-axle set on the tractor are controlled by an individual valve.

History of Antilock Braking Systems

Development work on ABS for heavy vehicles began in the 1950s with commercial products available in the late 1960s. The agency initially adopted a stringent set of heavy vehicle braking requirements in 1971 which were set to take effect in 1973. These requirements specified distances in which vehicles had to stop at specified speeds without wheel lockup. As a result of these requirements, approximately one million air-braked trucks, buses, and trailers were equipped with ABS in the late 1970s. While most of the vehicles equipped with ABS continued to function properly in service, some reliability problems occurred, particularly with trailers and low-volume specialty vehicles.

In response to a challenge that the then-available ABS were not reliable, the Ninth Circuit invalidated the "no wheel lockup" stopping distance requirements in *PACCAR* v. *NHTSA*, 573 F.2d 632 (9th Cir 1978) *cert. denied* 439 U.S. 862 (1978). The court questioned the reliability of the hardware used by manufacturs to comply with the "no lockup" requirement, holding that more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency can enforce a standard requiring its installation.

After *PACCAR*, U.S. manufacturers chose to halt development and production of ABS on heavy vehicles. Before the 1978 ruling, A–C Sparkplug, the last domestic manufacturer of ABS, produced about 180,000 ABS units per year. By 1984, it produced about 500 units.

Meanwhile European interest in ABS increased. ECE Regulation No. 13 includes technical requirements for antilock systems in Annex 13 of its regulation. Annex 13 defines three categories of antilock systems (Category I, II, and III) and sets performance requirements for each category. A Category I device must meet the most strigent performance requirements, whereas a Category III device must meet less strigent performance requirements. The European Economic Community (EEC, Common Market) directive has identical requirements. After October 1, 1991, all new heavy trucks (with GVWR greater than 16 metric tons), interurban buses (with GVWR greater than 12 metric tons), and trailers manufactured for sale in European countries adopting the standard have to be equipped with ABS.

Loss of Control Crashes

Crashes involving heavy vehicles result in a significant number of fatalities, injuries, and property damage each year. One of the most important vehicle-related contributing factors is brake system performance. This notice focuses on a specific type of crash: Those involving loss-of-control, skidding, or jackknifing as a result of braking. Such incidents typically involve poor lateral stability or loss of steering control due to locked wheels during braking. These crashes often occur when the vehicle is lightly loaded or empty and the road is slippery or wet. According to agency records, 80 percent of all jackknife incidents occur on wet roads; and 60 percent to 80 percent of single unit truck skidding incidents involve wet roads. Air-braked equipped combination units may jackknife when a tractor's drive wheels lock, swing out of the lane when a trailer's wheels lock, or lose steering control when steer-axle wheels lock. Similarly, a single unit truck may spin out of control when a brake application is made. In any case, such crashes disproportionately result in head-on collisions and fatalities. See NHTSA's March 1991 report to Congress, "Improved Brake Systems for Commercial Vehicles" (PB91–182600) which may be examined at the agency's Technical Reference Office, room 5108, at no charge. It is available from the National Technical Information Service (NTIS), Springfield, VA 22161 for a small charge.

Braking induced loss of control crashes most often occur when a truck driver responds "normally" to a crash threat by braking hard. In many hard braking situations, undesirable brake system characteristics (e.g., unbalanced brake torque at different axles) and roadway conditions (e.g., wet roads) combine to produce the rapid-event sequence of wheel lock-up and loss of control.

Based on available statistics about loss-of-control crashes, the estimated national annual crash, injury, and fatality totals are as follows: Crashes—38,400 to 57,600; injuries to truck occupants—16,550 to 24,826; injuries to occupants of other involved vehicles—21,043 to 31,565; truck occupant fatalities—177 to 265; and fatalities to occupants of other involved vehicles—1,521 to 2,281. For a more detailed discussion of the injury statistics, the reader should refer to the Preliminary Regulatory Evaluation (PRE) for this rulemaking and the above mentioned report to Congress, "Improved Brake Systems for Commercial Vehicles." The agency emphasizes that quantifying the number of loss-of-control crashes is very difficult, given the variation among data sources in reporting these types of crashes, the use of multiple data sources, the possible overlap among crash categories, and the inherent imprecision of identifying braking performance as a contributing factor to truck crashes. Nevertheless, the data, although imperfect, indicate that brake induced instability is a significant contributing factor to truck crashes.

NHTSA Activities Related to Stability and Control During Braking Peformance

In contemplation of again proposing brake stability and control requirements that would likely have the practical effect of requiring ABS or similarly performing equipment, NHTSA is reviewing the performance and use of ABS. These efforts include a study of the in-use experience with ABS in other countries, an extensive domestic fleet test of ABS equipped heavy vehicles, and performance testing of ABS equipped vehicles.

NHTSA has completed a study about the performance, reliability, and maintainability of in-service commercial vehicles equipped with ABS in Europe and Australia ("European/Australian Experience with Antilock Braking Systems in Fleet Service," U.S. Department of Transportation, NHTSA, DOT HS 807 269, March 1988). Among the study's findings were that maintenance was done only when a malfunction warning light activated; failure warning indications did not disrupt operations, allowing vehicles to continue their routes; no special maintenance was performed on the ABS beyond routine periodic inspections; no problems with electronic and radio frequency interference (RFI) were reported; with proper maintenance, ABS life was expected to equal that of the vehicle; and carriers reported that drivers liked driving ABS-equipped vehicles. ABS manufacturers believed that their systems were generally reliable and expected future improvements, although some problems were encountered with wiring and connector failures.

NHTSA conducted a fleet testing program of ABS-equipped truck tractors that was completed in the summer of 1991. That study evaluated the reliability, maintainability, and durability of 200 truck tractors equipped with ABS from Wabco, Bosch, Bendix, Rockwell, and Midland. Vehicles in the test fleet provided information about their in-use experience with ABS. Trailers were added to the program in 1990–1991. A final report on the tractor portion of the study will be published in early 1992. A report on the trailer portion will follow in 1993. The agency plans to use these findings if it decides to formulate future rulemaking about ABS. A discussion of the study's interim results may be obtained in the March 1991 report to Congress, "Improved Brake Systems for Commerical Motor Vehicles."

NHTSA is also in the process of conducting a test track evaluation of trailer ABS. The truck ABS test track evaluation was completed in late 1991. That study evaluates the performance and cost trade-offs of various antilock control strategies, including individual wheel control, axle-by-axle control, tandem axle control, and drive axle control. Test vehicles are being put through a full test matrix varying the maneuvers, speeds, test surfaces, and vehicle loadings. Maneuvers include straight line braking and braking in a 500-foot radius curve. Among the considerations being addressed by the tests are the electrical power requirements for ABS, the adequacy of the stop-lamp circuit to power ABS on multiple unit combinations, the stability and control implications of using wheel-by-wheel versus axle-by-axle ABS configurations, and the need for ABS on converter dollies. The agency is also working to develop ABS test procedures. Initial work has focused on defining test surfaces to ensure that test results can be reproduced at multiple test sites. Upon completion, the findings of both studies will be placed in the docket.

Issues

The agency is undertaking a comprehensive effort to improve the braking performance of heavy vehicles. The agency is considering in other proceedings whether to reinstate the requirements for 60 mph stops on high coefficient of friction surfaces for all heavy vehicles.

This ANPRM discusses the agency's efforts about whether to propose braking performance requirements addressing a vehicle's lateral stability and steering control during braking. To achieve such performance goals, the agency tentatively believes that the best available and most reliable techonology is ABS, and many heavy vehicles would have to be equipped with ABS or other similarly performing systems. The proposals for such an undertaking have not been fully developed because the agency is awaiting the final results of the ABS fleet study and the ABS vehicle testing. Along with comments to this notice, the results of these research studies will provide the basis for the agency's proposals to implement lateral

stability and vehicle control requirements. This notice also makes a number of requests for data and information. Since this is an ANPRM, no rule will be issued on this specific subject without an NPRM and further opportunity to comment.

In commenting on a particular matter or responding to a particular question, interested persons are requested to provide any relevant factual information to support their conclusions or opinions, including but not limited to, testing, statistical, and cost data, and the source of such information. The agency is interested in comments about the following general topics:

(a) The anticipated safety benefits from introducing requirements to improve the lateral stability and control performance during braking of heavy vehicles;

(b) Potential regulatory approaches to improve the lateral stability and control of heavy vehicles during braking, including anticipated performance requirements and test procedures;

(c) The type of equipment that would be needed to comply with the new requirements;

(d) A schedule for implementing lateral stability and contorl during braking requirements to maximize the benefits at reasonable costs;

(e) Diagnostic equipment and other methods to enhance the in-use equipment or systems installed to meet these requirements;

(f) The costs of requiring different devices and braking systems to comply with the anticipated requirements.

For ease of reference, the questions are numbered consecutively. The agency requests that commenters give the number of each question they answer.

Safety Need

The threshold issue in deciding whether to introduce a new safety standard or amend an existing safety standard concerns the safety need. The agency's initial review of the safety data includes information from the Fatal Accident Reporting System (FARs), NHTSA's General Estimates System (GES), National Accident Sampling System (NASS), and State accident data files. As explained above, these data indicate that braking induced loss-of-control crashes appear to be a frequent type of heavy vehicle crash that warrants further study. Because details about the circumstances of a crash are often lacking, supplementary information would be useful. Truck drivers, police officers, and fleet operators are uniquely qualified to supply NHTSA with first-hand information about their actual in-field experiences with braking induced loss-of-control crashes. Accordingly, the agency requests comments from these people and others about their experiences in which heavy vehicles lose control.

Each of the many heavy vehicle configurations and loading and operating conditions affect the braking and control of such vehicles. Heavy vehicles may be operated as a single unit (i.e., a straight truck), part of a tractor trailer combination, or in the bobtail configuration (i.e., a truck tractor operated without a trailer). Heavy vehicles may operate under greatly varying situations, from fully loaded to empty and on straight or curved roads that are dry or slippery. As mentioned above, manufacturers have developed several devices related to the braking of heavy vehicles, including automatic front axle limiting valves (ALVs), bobtail proportioning valves (BPVs), load-sensing proportioning valves (LSVs), and ABS that deal, in varying degrees, with improving brake performance under these various conditions. With these considerations in mind, the agency poses the following questions.

1. Based on the available data, what safety benefits would result from requirements to prevent or minimize the effect of braking induced loss-of-control crashes?

2. Should the agency apply requirements to some vehicle types but not others? Alternatively, should the agency initially apply requirements to limited vehicle types and later apply the requirements to all vehicle types? At this stage of the rulemaking, it appears that, based on the crash data, the greatest benefits would be obtained by requirements for braking lateral stability and control of truck tractors. Based on these crash data, it appears that an intermediate level of safety benefits could be obtained from applying these requirements to trailers, and converter dollies. In addition, it appears that smaller benefits would be obtained from applying these requirements to single unit trucks, buses, school buses, and special permit vehicles.

3. What additional injury and non-injury data and other information exist about real-world crashes and near crashes with heavy vehicles jackknifing, skidding, or otherwise losing control?

The next several questions relate to NHTSA's interest in comments from drivers, police officers, and others concerning their experience with actual braked induced crashes.

4. What type of heavy vehicle (e.g., tractor trailers, straight trucks, buses, bobtail tractors) was involved in the crash? To what extent was the vehicle loaded? Many heavy vehicle crashes also involve one or more passenger vehicles. What type of "other involved" vehicle or vehicles were involved in the crash?

5. With what type of braking-related equipment (e.g., ABS, ALV, BPVs, etc.) was the heavy vehicle equipped?

6. At the time of the event, what were the driving conditions and weather environment? At what speed was the heavy vehicle traveling? Was the roadway dry, wet, or icy? To what degree did these adverse driving conditions contribute to the crash and its severity? Did the crash occur on an interstate, secondary highway, or residential road? What, if any, crash avoidance maneuver precipitated the crash?

7. Based on the above information, if the heavy vehicle had been equipped with a different brake system or other device which helps in maintaining a vehicle's stability during stopping, could that hardware have helped in avoiding or reducing the severity of the crash?

Requirements Concerning the Lateral Stability and Control of Heavy Vehicles During Braking

If NHTSA were to amend Standard No. 121 to improve the lateral stability and control of heavy vehicles during braking, the agency would first need to determine that the amendment met the Vehicle Safety Act's criteria that the requirement be practicable and be stated in objective terms. (Section 103(a)). Any rulemaking to improve lateral stability would also be guided by the findings in *PACCAR*, which held that at the time of its implementation, parts of the existing standard were not reasonable nor practicable. The court held that objective test methods and more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency can enforce a standard requiring its installation.

8. Consistent with the above considerations, the agency is contemplating requiring heavy vehicles to be capable of stopping without loss of stability or directional control, while turning on a slippery surface and with full brake pedal application. Are these anticipated performance objectives appropriate and feasible? What additional requirements, if any, are necessary to achieve an appropriate level of safety?

9. Based on the preliminary results of the agency's testing of ABS, the agency is contemplating certain test procedures,

including a braking-in-a-curve test in which a heavy vehicle's braking lateral stability and control would be measured at slower speeds on a slippery surface. At this stage in the rulemaking, the agency is inclined to pursue a "braking-in-a-curve test" without specifying minimum stopping distance performance requirements. This type of test would ensure that stability enhancing equipment is installed on vehicles without specifying the effectiveness performance of that equipment. The agency is inclined to specify a stability performance test on a low coefficient of friction surface in which the test vehicle traveling at 30 mph or 75 percent of its maximum drive through speed capability would be required to stay within the 12-foot lane of a 500 foot radius curve during a full treadle brake application. The 500 foot radius curve is representative of a "tight" highway exit ramp. No stopping distance performance requirement would be included for the low coefficient of friction surface. What problems, if any, are associated with this type of test procedure? Is this testing approach a valid indicator of heavy vehicle lateral stability and control performance?

10. If heavy vehicles are equipped with different configurations of ABS (i.e., individual wheel control, axle-by-axle control, side-by-side control, and drive-axle-only) would any modifications to the braking-in-a-curve test procedure be necessary to accommodate any of these different systems? Would such modifications be appropriate? Should the agency include an efficiency requirement to ensure that all systems meet a certain minimum efficiency level?

11. The agency anticipates specifying the surface used in the curve test to have a PFC of not more than 0.5 measured in accordance with the ASTM Method E 1337–90 at a speed of 40 mph, using the Standard ASTM E1136 Reference Test Tire, with water delivery. A surface with a PHC of 0.5 represents a wet secondary road in poor condition. While several materials may be used to obtain a test surface with a PFC of 0.5, the agency typically uses a wetted "jennite" surface. Jennite is the trade name of a sealer for paved surfaces. Is a PFC of 0.5 an appropriate measure of a slippery surface? Does such a surface raise any practicability concerns? Are there other low coefficient of friction test surfaces that offer less fluctuations, thus ensuring greater repeatability of vehicle stability performance?

12. While the agency is not inclined to propose it, another type of test, known as a "split coefficient of friction surface" (or split Mu surface in which Mu is the measure of the coefficient of friction) test, combines two surfaces, one with high friction and the other with low friction. The test lane is split along its length, down the centerline, so that the wheels on one side of the vehicle are on the high friction surface and the wheels on the other side of the vehicle are on the slick surface. What benefits would be obtained from testing on such a split mu surface? What testing problems would result from such a surface? Do commenters agree with the agency's tentative decision not to pursue such a procedure?

13. As part of the agency's testing, the agency has evaluated braking performance which simulates applying the brakes and then changing lanes while braking. Such a land-change maneuver simulates a relatively severe evasive maneuver, similar to what might be required if another vehicle stopped suddenly or "cut in front" of the truck. However, there appear to be several shortcomings with this approach. First, compared to the other maneuvers, the lane-change test includes additional variables which may influence the test results, [e.g., the brake application and initiation of steering influence the vehicle's path.) Second, this test may not provide additional or different insights about ABS performance compared to the information obtained using the curve and straight lane maneuvers. Accordingly, at this stage of the rulemaking, the agency does not anticipate pursuing the lane-change test procedure. Do commenters agree with the agency's tentative decision not to pursue such a procedure? What have been the experiences of commenters with this test?

14. Two different methods of applying brakes are used when testing ABS (and braking systems in general). One method is a "full treadle" rapid, pedal-to-floor application typical of how a driver might react in a crash-threatening situation. This type of brake application can precipitate wheel lock-up and loss-of-control if the vehicle is unloaded or operating on a slippery surface. A second method is a modulated "driver-best-effort" application in which wheels are not locked to enable stops that are as quick and short as possible while still maintaining stability and steering control. At this stage of the rulemaking, the agency anticipates proposing a full treadle application because it is more representative of a typical driver's response to a real world crash-threatening situation. In addition, a driver best-effort stop could be unrealistically moderate in the absence of stopping distance performance requirements on the low Mu braking-in-a-turn test. In specifying the amount of brake application force in this test procedure, the agency anticipates that requiring a treadle value pressure of 100 psi within 0.1 second for air braked vehicles or a pedal force of 200 pounds in 0.1 seconds for hydraulic braked vehicles could adequately represent a full treadle application. The agency requests comments about how to specify the brake application provisions. Sepcifically, are such applications representative of the type of brake applications drivers make when confronted with a potential crash situation?

15. An alternative to the road test of a vehicle would be for the agency to institute an equipment requirement similar to those in S5.1 and S5.2 of Standard No. 121. With this alternative, the agency could mandate the installation of ABS or similar types of equipment on certain types of heavy vehicles. Possible advantages of a mandatory equipment requirement are that it might be easier to develop than one involving vehicle performance testing, and pose fewer concerns about variability. However, NHTSA generally favors performance oriented requirements in brake standards, since they give vehicle manufacturers flexibility in use of equipment to meet the requirements. Also, the agency might have difficulty establishing an appropriate, readily enforceable definition for what constitutes an ABS or other suitable equipment that is both broad enough to cover all effective ABS designs but precise enough to avoid including designs that would not significantly improve safety. If such an equipment requirement approach were taken, the agency also might have to include specific test procedures. The agency requests comments about the possible benefits and shortcomings of an equipment requirement approach. Commenters are also requested to address how best to define ABS or other suitable equipment.

Equipment Needed To Comply With the Potential New Requirements

16. If NHTSA were to amend Standard No. 121 to improve the lateral stability and control of heavy vehicles during braking, certain hardware would need to be added to some vehicles to achieve the new performance requirements. At this stage of the rulemaking, the agency anticipates that the hardware most likely to be added would be ABS to control all axle

positions. Nevertheless, it is possible that other hardware could achieve the same performance goals. Along with ABS, what other equipment could achieve the requirements discussed in the previous section?

17. How many vehicles would need to be equipped with ABS or the other hardware to comply with the anticipated requirements?

18. Testing conducted by the agency indicates that antilock systems that control both the steering and drive axles of a vehicle provide full steering control and stability during braking. However, drive-axle-only systems appeal to some users in the industry because they are relatively simple, and provide some benefits (e.g., prevention of jackknifing) at a lower initial cost. They do not, however, ensure steering control while braking. Under what circumstances, if any, would a drive-axle-only system provide adequate safety benefits, even though the all-axle and all-wheel systems would provide greater safety benefits? Should systems that control all axles on a vehicle be required for all heavy vehicles, or should drive-axle-only systems be permitted on some classes of vehicles?

Implementation

The agency's goal in implementing requirements for lateral stability and steering control during braking is to achieve significant improvements in braking performance at a reasonable cost to manufacturers and consumers. In achieving this goal, several factors may be relevant, including only applying requirements to certain vehicle types, having more stringent requirements for certain vehicle types, and phasing in requirements to apply to certain vehicle types before others.

The agency is aware of several different methods to implement potential requirements. One approach would be first to apply the requirements to vehicles which experience the highest incidence of braking induced loss of control crashes (e.g., standard truck tractors) for which commercially available ABS have already been developed. The requirements could then be expanded to include other heavy vehicles that experience fewer incidences of braking induced loss of control crashes, and which may be more difficult or costly to equip. A second approach would be for the agency to patter its ABS performance standards after Annex 13 of the ECE Regulation No. 13. This provision specifies three categories of ABS, each with a different level of stringency. While all heavy vehicles would have to comply with an ABS requirement, certain vehicles would have to comply with more stringent requirements. A third approach would be based on vehicle weight, type of vehicle (e.g., school buses, tankers), or vehicle characteristics (e.g., short wheelbase, high center of gravity). In addition, an implementation schedule could incorporate portions of each approach.

19. At this stage in the rulemaking, the agency contemplates applying a braking stability and control requirement at different times based on the type of vehicle's annual production volume and on the type of vehicle that could provide the greatest safety benefit. Truck tractors, the type of vehicle with the highest annual production volume and the greatest potential for increased safety benefits when equipped with ABS, would be the first to be subject to any braking stability and control requirements. This would be followed by requirements for trailers, converter dollies, single unit trucks, and buses. Among the advantages of this implementation approach are that (1) ABS installed on truck tractors would provide the greatest safety benefits early in the implementation period because loss of control crashes would be greatly reduced (i.e., crash data reveal that 70 percent of all serious heavy vehicle crashes involve combination unit trucks), (2) ABS manufacturers should be able to reduce their manufacturing costs quickly because of the economies of scale associated with first applying the requirements to high production vehicles, (3) all heavy vehicle ABS manufacturers currently have a tractor system commercially available, and (4) enforcement of this approach would be relatively easy, because it involves readily identifiable and distinct categories of vehicles. The agency welcomes comments about this anticipated implementation procedure. Is this the type of implementation approach that would achieve the maximum safety benefits while minimizing costs? Would any other approach be more reasonable? Which approach would be the most feasible? Which approach would be the easiest to administer?

20. If the agency were to propose this approach, the following implementation schedule is anticipated:

Vehicle type	Effective date
Truck tractors	Two years after final rule.
Trailers, converter dollies	Three years after final rule.
Single unit trucks	Four years after final rule.
Buses	Five years after final rule.

Is this implementation schedule appropriate? Would it be reasonable to delay any portion of it? Accelerate any portion of it?

21. The agency could establish a system like the ECE's in which categories or tiers of increasingly stringent performance requirements would be applied to different types of vehicles, instead of establishing one minimum requirement for all antilock systems. For instance, vehicle types considered to be the most in need of braking stability and control systems, such as tractor trailers might be required to have individual wheel control ABS; whereas, vehicle types considered to be relatively more stable such as lighter single unit trucks might be required to have only axle-by-axle control. What would be the benefits and shortcomings of such an approach? What performance criteria should be included in each category, and what types of vehicles should be equipped with antilock systems of each category?

22. ABS manufacturers have not developed systems for many special-purpose vehicles (e.g., crane carriers, heavy haulers, all-wheel drive vehicles, concrete mixers and refuse trucks), because their low production volumes result in relatively high developmental costs. The agency notes that such special-purpose vehicles presented particular problems with ABS in the late 1970s. As explained above, the agency is inclined to apply the requirements so that manufacturers concentrate on high-volume, high safety benefit vehicle types. Accordingly, at a minimum, the agency anticipates that the requirements would not be applied to the special-purpose vehicles until later in the implementation schedule. An extension of this philosophy would be to exclude certain special-purpose vehicles permanently from the anticipated requirements. What are the advantages and disadvantages of applying lateral stability requirements to special-purpose vehicles? If the agency decides to exclude certain vehicles, which vehicle types should be excluded? Should the applicability section list vehicles to which the standard would not apply? If so, what specialty vehicles should be listed? What other ways could be used to specify the requirement's applicability?

23. As for hydraulic-braked trucks and buses, very few of them are designed to

tow heavy trailers. The agency is not aware of any antilock systems that have been developed for hydraulic-braked heavy vehicles in the U.S. Accordingly, the agency anticipates that ABS-related requirements would be applied to hydraulic-braked vehicles later in the implementation schedule, and only after reliable systems are demonstrated to be available. What safety benefits would result from applying the braking lateral stability and control requirements to hydraulically braked vehicles earlier in the implementation schedule? Are antilock systems available for these vehicles?

24. The agency notes that when the "no lockup" provisions in Standard No. 121 were promulgated in the 1970s, some users, especially of single unit trucks and buses, switched to hydraulic brakes to avoid the additional costs of ABS-related requirements in Standard No. 121. If braking lateral stability and control requirements are extended to air-braked single-unit trucks and buses, the agency anticipates making them applicable to hydraulic-braked heavy vehicles at the same time. Would such an implementation schedule be necessary, and would it provide adequate leadtime to allow manufacturers to develop systems for hydraulic-braked heavy vehicles? What research and development are manufacturers currently doing for ABS on hydraulic braked vehicles? What additional leadtime, if any, would be appropriate for heavy hydraulic vehicles with ABS?

Diagnostic and Other "In-Use" Matters

25. Many early Standard No. 121 ABS systems, particularly for trailers, were not operational much of the time because they shut down due to malfunctions. In many cases, drivers and repair personnel either were not aware that there was a problem because trailers were not required to have antilock failure warning signals, or were unable to determine how to repair it because proper diagnostic equipment was not generally available in the field. To avoid such problems, section S5.1.6 requires heavy vehicles subject to Standard No. 121 to be capable of signalling a warning about a total electrical failure of the antilock system. The agency is considering whether to require a similar warning about malfunctions. The agency notes that any such requirement would be consistent with the agency's rulemaking in response to the WABCO petition. (56 FR 20401, May 3, 1991.) What is the need for such a warning? What would be the best approach to effectuate such a warning? Should there be a warning device about ABS failure on trailers? Should this be a common warning pattern for all ABS-equipped vehicles? Should the trailer warning signals actuate when adequate electrical power is not present to operate the trailer ABS or should the warning signal actuate only if the ABS actually fails for mechanical or electrical reasons?

26. If an ABS malfunctions, it may be necessary to have equipment that could diagnose the malfunction. Diagnostic systems could be either on-board the vehicle (i.e., a "self-contained" system) or outside the vehicle. At this stage of the rulemaking, the agency does not believe it would be reasonable to expect every truck stop in the country to have multiple diagnostic equipment for several types of systems. Rather, the agency believes that it might be worthwhile to require each ABS to have its own self-contained diagnostic system. Ideally, such a system would operate in the same standardized way for all systems. The Society of Automotive Engineers (SAE) is developing a protocol for self-contained diagnostics that may provide the basis for a requirement. How necessary is a system to diagnose ABS malfunctions? Is requiring a "self-contained" diagnostic system the appropriate approach? What requirements would be necessary to provide for a standardized diagnostic system?

27. The agency's experience in the 1970s revealed that an ABS requirement will only be effective if heavy vehicle users are committed to keeping the system in working condition. The agency anticipates working with the Federal Highway Administration's Office of Motor Carrier Standards and the States to ensure the proper in-use performance of these systems. For instance, an inoperative ABS might result in the issuance of a repair ticket or fine. Would this approach ensure that ABS would be maintained in an operable condition? How else could the agency ensure that ABS would continue to be operable?

28. Based on the agency's earlier experiences with ABS, having requirements that result in vehicles being equipped with ABS will be ineffective if people do not know how to diagnose an ABS malfunction or do not know how to fix a malfunctioning system. Accordingly, the agency believes that educational programs would be needed for drivers, fleet operators, and maintenance and enforcement personnel. The agency welcomes suggestions on educational programs to accomplish this end.

Costs Associated With Anticipated Requirements

NHTSA has made an initial estimate of the cost to the vehicle manufacturer of some of the devices and braking systems that would be needed to improve lateral stability consistent with the anticipated requirements. The agency notes that the main components of ABS currently available for most common heavy vehicles are the Electronic Control Unit (ECU), the air pressure modulators, and the wheel speed sensors (WSS). The agency estimates that the cost of these components to be approximately $500 for an ECU, $100 for a modulator, and $50 for a WSS. The initial hardware cost to equip a 6×4 tractor—the most prevalent heavy vehicle configuration—with an ABS depends on the desired ABS performance parameters.

The best performing ABS are those that meet the criteria of ECE Category 1 systems. A complete six-channel system installed on a 6×4 tractor would have 1 ECU, 6 modulators, and 6 WSSs. The agency estimates that a six channel system would cost approximately $1400. Similar ABS performance could be achieved by a four-channel system having 1 ECU, 4 modulators, and 4 WSSs, at an approximate cost of $1100.

Systems that meet the criteria of an ECE Category 2 are Select Low (SL) systems which control each axle with a Modulator while having a WSS at each wheel location. These systems guarantee vehicle and directional stability, and shorter stopping distances on surfaces with uniform friction, but increase stopping distances if surface friction is different left to right, e.g. split Mu surface. The agency estimates that a full SL system installed on a 6×4 tractor consisting of 1 ECU, 3 Modulators, and 6 WSSs would cost approximately $1100.

Systems that meet the criteria of an ECE Category 3 are Drive Axle Only (DAO) truck tractor systems and SL Rear Axle trailer systems. These systems guarantee no lockup of the ABS equipped axle but do not ensure steerability during crash avoidance braking maneuvers. The agency estimates a DAO system installed on a 6×4 tractor consisting of 1 ECU, 1 modulator and 2 WSS would cost approximately $700. NHTSA requests comments about these initial cost estimates for these or similar devices and any additional pertinent cost information.

29. For each of the systems mentioned above, what would be the likely cost to final purchasers resulting from its addition to a heavy vehicle?

30. What is the number and type of heavy vehicles currently equipped with ABS? What is the number and type of heavy vehicles that are expected to be voluntarily equipped with ABS in the near future? What is the current number and type of heavy vehicles that could be equipped with ABS to improve lateral stability.

31. What costs would be associated with the self-contained diagnostic device?

32. NHTSA notes that European insurance companies currently offer discounts for antilock equipped heavy vehicles and American insurance companies offer discounts for antilock equipped passenger cars, light trucks and MPVs. Do insurance companies anticipate offering discounts for antilock equipped heavy vehicles? If so, how large would the discount be?

Other Areas for Improving Braking Performance

The Motor Carrier Act requires the Secretary of Transportation to initiate rulemaking concerning methods for improving braking performance on heavy vehicles. Such rulemaking shall include an examination of antilock systmes, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. The agency is considering the need to reinstate stopping distance performance requirements on heavy vehicles and to propose threshold pressure requirements to improve braking capatibility between truck tractors and trailers. The agency has also recently issued an NPRM on brake timing. (56 FR 66395, issued December 23, 1991).

33. Are there other areas for improving heavy vehicle braking performance that the agency should consider?

Rulemaking Analyses and Notices

DOT Regulatory Policies and Procedures

NHTSA has considered the potential burdens and benefits associated with this advance notice. NHTSA has determined that this advance notice is a significant rulemaking action under the Department of Transportation's Regulatory Policies and Procedures. The advance notice concerns a matter in which there is substantial public interest, and there is a potential for significant safety benefits if effective measures can be developed to address braking stability and control of heavy vehicles. The preliminary regulatory evaluation (PRE) for this advance notice addreses preliminary estimates of the costs and benefits of potential countermeasures that the agency is considering in this action. Those estimates are summarized below.

The agency based its analysis of the potential safety benefits of this notice on available accident data and the results of a study which analyzed the potential for avoiding, and reducing in severity, crashes involving air brake equipped heavy vehicles if those vehicles had been equipped with Category 1 ABS. It is estimated that the use of Category 1 ABS on all air-braked equipped heavy vehicles would result in between 308 and 498 fewer fatalities, between 8,700 and 19,900 fewer injuries, and between $99 million and $147 million of property damage prevented. About two-thirds of these prevented injuries would involve the occupants of vehicles other than the heavy vehicle involved in the crash.

The potential cost impact of this notice is based on the same assumption as the safety benefit analysis, i.e., the requirement would result in all air brake equipped heavy vehicles being equipped with Category 1 ABS. Using the $1100 per vehicle cost to the vehicle manufacturer for a four channel ABS, the agency estimated that the cost to a purchaser of a truck, bus, or truck tractor would be $1661. Based on this consumer cost estimate and an estimated annual vehicle production of 187,000 vehicles, the annual cost for powered heavy vehicles would be approximately $310 million. For trailers, using the per vehicle cost to the vehicle manufacturer of $900, the agency estimated a cost to the trailer purchaser of $1359. This consumer cost, together with an estimated annual production of 149,000 trailers, yields an estimated annual cost of $202 million. The total annual cost of such a requirement would be $513.1 million.

Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this advance notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws would be affected. The agency welcomes comment on this issue.

Comments

NHTSA invites comments from interested persons on the questions presented in this advance notice and on other relevant issues. It is requested but not required that 10 copies be submitted.

Comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

NHTSA will consider all comments received before the close of business on the comment closing date indicated in the "Dates" caption of this advance notice. To the extent possible, the agency will consider comments filed after the closing date. Comments on the advance notice will be available for inspection in the docket. After the closing date, NHTSA will continue to file relevant information in the Docket as this information becomes available, and recommends that interested persons continue to examine the Docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(15 U.S.C. 1392, 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 1, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-13169 Filed 6-2-92; 11:13 am]

BILLING CODE 4910-59-M

FEDERAL MARITIME COMMISSION

46 CFR Part 581

[Docket No. 92-31]

Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC") is considering the publishing of a proposed rule that would permit two or more shippers to enter into a service contract with an ocean common carrier or conference of such carriers regardless of whether the shippers were members of a shippers' association. The purpose of this Advance Notice is to solicit comments and information from the public on the desirability and feasibility of such a proposed rule.

DATES: Comments due July 8, 1992. Comments must be received at the Commission by the due date; the date of mailing will not be accepted as the date of filing in this proceeding.

ADDRESSES: Comments (original and 15 copies) are to be submitted to:

Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: Section 8(c) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1707(c), permits an ocean common carrier or conference to enter into a service contract with a shipper or shippers' association.[1] The 1984 Act defines a "service contract" as * * *

* * * a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

Id. app. 1702(21).

[1] A "shippers' association" is defined as * * * * * * a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload or other volume rates or contracts.

46 U.S.C. app. 1702(24).

The definition of "service contract," contained in the FMC's earliest rules implementing the 1984 Act, was identical to that contained in the Act. See Docket No. 84-21, *Service Contracts*, 22 S.R.R. 1424 (1984). However, when the Commission later revised its service contract rules based on its experience under the 1984 Act, it initially proposed to define "service contract" as "a contract between *one or more* shippers or shippers' associations and *one or more* ocean common carriers or conferences * * *" (emphases supplied). Docket No. 86-6, *Service Contracts*, 24 S.R.R. 277, 282 (1987). Based on comments expressing reservations with this definition, the Commission declined to adopt the proposed definition and retained the definition which is currently set forth at 46 CFR 581.1(n).[2]

The Commission's decision in this regard may have been based on an unnecessarily restrictive interpretation of the 1984 Act's definition of "service contract." Moreover, permitting two or more unaffiliated shippers to join together in a service contract would not appear contrary to the intent and purpose of the 1984 Act. On the contrary, it could lead to an increasing number of small or medium-sized shippers being able to engage in service contracts, one of the Act's goals.

The Commission is accordingly seeking comment on whether it should propose a rulemaking to permit unaffiliated shippers to enter into a joint service contract. This issue can best be addressed initially through the issuance of an Advance Notice of Proposed Rulemaking to solicit the views of all interested persons. Commenters are requested to submit proposed rule language if they believe such a rule is warranted.

Specific comments are sought on the following specific issues, as well as on any other matter deemed to be relevant.

1. Should two or more shippers be permitted to access a service contract originally entered into by only one shipper, or vice versa?

2. If two or more unaffiliated shippers enter into a service contract, should they be jointly and severally liable for all obligations thereunder or could the contract apportion their liabilities in the event of a default? Is this an issue the FMC should be concerned about or is it a matter for the contracting parties to address?

3. If two or more unaffiliated shippers enter into a service contract and one shipper defaults during the course of the contract, should the others be permitted to continue at a reduced cargo commitment? Is this a matter for the FMC or the contracting parties to address? Would this affect the rights of other shippers who were unable to meet the original commitment but might be able to meet the reduced commitment?

4. Should NVOCCs be treated any differently from proprietary shippers, *e.g.* should two or more NVOCCs be permitted to enter into a service contract?

5. Should affiliates of shipper contract parties be allowed to participate in the contract?

6. Are there implications for shippers' associations of permitting two or more unaffiliated shippers to enter into a joint service contract that the Commission should address?

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-13243 Filed 6-5-92; 8:45 am]

BILLING CODE 6730-01-M

[2] In making this determination, the Commission explained:

Under the definition, shippers can continue to affiliate to take advantage of service contracts, if that affiliation meets the definition of a "shippers' association."

Id. There may be good reason, however, why shippers wanting to join together on a service contract may not also want to assume the obligations and responsibilities that a shippers' association relationship my entail.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB66

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Scimitar-horned Oryx, Addax, and Dama Gazelle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: Because the Service has learned there might be important additional information available, the Service gives notice that the comment period on the proposed rule to determine endangered status for the scimitar-horned oryx, addax, and dama gazelle is reopened until September 1, 1992.

DATES: All comments and information received through September 1, 1992, will be considered in making a final decision on the proposal and will be included in the administrative record.

ADDRESSES: Please send correspondence regarding this notice to the Chief, Office of Scientific Authority; Mail Stop: Arlington Square, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240 (Fax number 703–358–2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703–358–1708 or FTS 921–1708).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 5, 1991 (56 FR 56491–56495), the Fish and Wildlife Service (Service) issued a proposed rule to determine endangered status for the scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*). A notice of minor correction was published on February 10, 1992 (57 FR 4912). These three antelope species are native to North Africa and have declined in that region because of habitat deterioration and excessive hunting. During the initial comment period on the proposal, which ended on March 4, 1992, the Service received several requests for more time, particular concern being expressed relative to the status of captive and free-roaming populations. There were indications that considerably more data might be made available on such populations, and possibly wild populations as well. The Service also has learned of additional authorities who might be able to provide important new information. It therefore has been decided to reopen the comment period until September 1, 1922.

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: May 14, 1992.

Bruce Blanchard,

Acting Director.

[FR Doc. 92–13252 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening and Extension of Comment Period on the Proposed Endangered Status for Seven Plants and the Morro Shoulderband from San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: Because the Service would like to receive additional information, the U.S. Fish and Wildlife Service announces the reopening and extension of the comment periods for proposed rules to list seven plants and the Morro shoulderband (*Helminthoglypta walkeriana*), as endangered species pursuant to the Endangered Species Act of 1973, as amended. The seven plants are: Marsh sandwort (*Arenaria paludicola*), Gambell's watercress (*Rorippa gambellii*), Morro manzanita (*Arctostaphylos morroensis*), Chorro Creek bog thistle (*Cirsium fontinale* var. *obispoense*), Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*), Indian Knob mountainbalm (*Eriodictyon altissimum*), and California sea-blite (*Suaeda californica*). The snail is known as the Morro shoulderband (*Helminthoglypta walkeriana*); it has also been referred to as the banded dune snail.

DATES: The commend period on the proposals is reopened and extended until July 8, 1992.

ADDRESSES: Comments and materials should be sent to the Office Supervisor, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven M. Chambers, Office Supervisor, at the above address (telephone number 805/644–1766).

SUPPLEMENTARY INFORMATION:

Background

Marsh sandwort (*Arenaria paludicola*) and Gambell's watercress (*Rorippa gambellii*) are restricted to coastal freshwater marshes along the coast of San Luis Obispo County (Oso Flaco and Little Oso Flaco Lakes), California. Both plants are threatened with loss of freshwater marsh habitat from alteration of hydrologic regime associated with urban and agricultural development. Gambel's watercress is also threatened from encroachment of sand from adjacent coastal dune habitat.

The remaining five plants and the snail are found in western San Luis Obispo County and are threatened with alteration or destruction of habitat owing to urbanization, recreational activities, road construction, grazing, water diversion, competition with alien plants, and possibly dredging of Morro Bay. In addition, several of the plants and the Morro shoulderband are threatened with extinction by virtue of stochastic (i.e., random) extinction. A determination that these taxa are endangered would implement the protection provided by the Endangered Species Act.

A complete copy of the proposal to list the two plants (*Arenaria paludicola* and *Rorippa gambellii*) as endangered species was published in the **Federal Register** on September 30, 1991 (56 FR 49446), and the original comment period closed on November 29, 1991. A complete copy of the proposal to list the remaining five plants and the snail as endangered species was published in the **Federal Register** on December 23, 1991 (56 FR 66400), and the original comment period closed on February 21, 1992. The public comment period is being reopened on both of these rules to allow for additional comment. The comment period closes on July 8, 1992. Written comments should be submitted to the Service in the ADDRESSES section.

Author

The primary author of this notice is Constance Rutherford, Botanist, Ventura Office, at the above address.

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361–1707; 16 U.S.C. 1531–1544 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: May 6, 1992.

Marvin L. Plenert,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 92–13247 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018-AB66

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for the Karner Blue Butterfly (Lycaeides Melissa Samuelis)

AGENCY: Fish and Wildlife Service.

ACTION: Proposed rule: notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973 (Act), gives notice that a public hearing will be held on the proposed endangered status for the Karner blue butterfly *(Lycaeides melissa samuelis)*. The hearing will allow all interested parties to submit oral or written information on factors the Service is required to consider in making its final decision on listing the species. The comment period for the original proposed rule, published in the **Federal Register** of January 21, 1992 (57 FR 2241) closed on March 6, 1992. The comment period is now reopened, effective this date of publication, and will remain open until July 6, 1992.

DATES: The public hearing will be held on June 25, 1992, from 7 to 9 p.m. in Eau Claire, Eau Claire County, Wisconsin. Written comments must be received from all interested parties by July 6, 1992. Comment received after this closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held in the County Board Room of the Eau Claire County Courthouse, Eau Claire, Wisconsin. Written comments should be sent directly to the Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities Field Office, 4101 East 80th Street, Bloomington, Minnesota 55425–1665. Information and documents received at the public hearing will be available for inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Lynn L. Lewis, Twin Cities Field Office (see ADDRESSES section), telephone: 612/725–3548.

SUPPLEMENTARY INFORMATION:

Background

Historically, the Karner blue butterfly occurred in a narrow band extending from eastern Minnesota, across portions of Wisconsin, Illinois, Indiana, Michigan, Ohio, Canada (Ontario) of Pennsylvania, New York, Massachusetts, and New Hampshire. It is now extirpated from Illinois, Ohio Ontario, Pennsylvania, and Massachusetts. The Service propsoes to list the Karner blue butterfly as an endangered species because of marked reduction of the species' range and declining size of remaining populations. The primary cause of past and threatened losses is habitat modification and destruction due to development, vegetative succession in the absence of natural disturbances, silviculture, and fragmentation of remaining habitat. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *(Lycaeides melissa samuelis)*.

The Karner blue butterfly was proposed for listing as an endangered species, with no critical habitat, in the **Federal Register** of January 21, 1992 (57 FR 2241). Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. On March 6, 1992, the Service received a written request for a public hearing from Mr. Wilmer Pautz, of Altoona, Wisconsin.

In response to this request, the Service has scheduled a public hearing for June 25, 1992, in the County Board Room of the Eau Claire County Courthouse, Eau Claire, Wisconsin. The Public hearing will provide opportunity for the public to enter formal statements into the record. The Service invites the public to provide information on the following items at the public hearing:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Karner blue butterfly;

(2) The location of any additional populations of the Karner blue butterfly and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of the Karner blue butterfly;

(4) Current or planned activities in Karner blue butterfly areas and their possible impacts on the species.

Parties wishing to make statements for the record should bring copies of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The comment period for this proposal closes on July 6, 1992. Written comments not presented to the Service at the public hearing should be submitted to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Charles G. Kjos, Twin Cities Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES** Section).

Authority

The authority of this action is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Publ. L. 99–625; 100 Stat. 3500) unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species. Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: June 3, 1992.

John Christian,

Acting Regional Director, Region 3, U.S. Fish and Wildlife Service.

[FR Doc. 92–13443 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 678

[Docket No. 920409–2109]

RIN 0648–AD12

Fishery Conservation and Management; Foreign Fishing; Atlantic Sharks

AGENCY: National Marine Fisheries Service (NMFS), NOSS, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement the proposed Fishery Management Plan for Sharks of the Atlantic Ocean (FMP). This rule would (1) divide the 39 shark species managed by the FMP into three distinct groups for management and resource assessment purposes—large coastal, small coastal, and pelagic species; (2) establish annual quotas for commercial landings of the large coastal and pelagic species groups with closures of the commercial fisheries for these species groups when their annual quotas are reached; (3) establish a fishing year of July 1 through June 30; (4) require annual permits for commercial shark fishing vessels fishing in the U.S. exlusive economic zone (EEZ); (5) prohibit "finning," the practice of harvesting sharks for fins alone; (6) limit the sale of sharks harvested from the EEZ to those caught from permitted

vessels; (7) establish a minimum size limit for mako sharks; (8) establish recreational bag limits for sharks; (9) require sharks that are not harvested as part of the commercial quota or under the bag limits to be released in a manner ensuring maximum probability of survival; (10) require data reports from owners/operators of permitted vessels and persons conducting shark fishing tournaments; (11) require permitted vessels to accommodate NMFS-approved observers upon request; and (12) authorize the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), to implement or adjust certain management measures in accorance with a specified regulatory procedure. The intended effects of this rule are to prevent overfishing of sharks and to increase understanding of the condition of shark resources and the operation and effects of the shark fishery.

DATE: Written comments must be received on or before July 20, 1992.

ADDRESSES: *Comments:* Comments on the proposed rule should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Managment, NMFS, NOAA, 1335 East-West Highway, Silver Spring, MD 20910 (telephone: 301–713–2334); please mark envelope "Shark FMP Comments." Comments on the information collection requirements should be sent to Edward E. Burgess, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702 and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Desk Officer for NOAA). *FMP Copies:* Copies of the FMP and related documents (including the draft Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Draft Environmental Impact Statement (DEIS)) may be obtained from the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, (telephone: 813–893–3161).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3161.

SUPPLEMENTARY INFORMATION: The Proposed FMP was prepared by NMFS under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Preparation of the FMP began under section 304(c) of the Magnuson Act which provides for Secretarial preparation under certain circumstances. The Fishery Conservation Amendments of 1990 give the Secretary of Commerce (Secretary) full management responsibility for managing Atlantic highly migratory species, including "oceanic sharks;" accordingly, the FMP and these proposed regulations are being issued under section 304(f)(3) of the Magnuson Act which directs the Secretary to prepare fishery management plans for the specified Atlantic highly migratory species.

The proposed FMP was released on January 8, 1992, to the public for a 60-day review and comment period ending March 9, 1992. A notice of availablility of the FMP was published in the **Federal Register** on January 13, 1992 (57 FR 1250). The proposed FMP has been distributed to the New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils (Councils) for their comment. All public, Council, and other comments received will be considered and addressed in conjunction with issuing a final FMP and implementing regulations. This proposed rule would implement the proposed FMP which would establish a management regime for sharks in the EEZ of the Atlantic Ocean (including the Gulf of Mexico and Caribbean Sea) for commercial and recreational shark fishing.

Background

Sharks are a diverse group of about 350 species ranging from whale sharks (approximately 12 meters long) to the tiny pygmy shark (only a few centimeters). Sharks grow very slowly, take many years to mature, have long reproductive cycles, and produce relatively few young. Many, if not most, species are highly migratory; some have ranges covering several oceans. Annual migratory patterns appear closely related to water temperatures and to the sharks' reproductive cycles. Adults usually congregate in specific areas to mate and females move to specific nursery areas, frequently inshore or new shore, to pup. With few exceptions, sharks have acute olfactory and motion-detection senses that allow them to be very effective predators. At the top of the predator-prey food chain, sharks are taken primarily by man; because of their low reproductive rate, they are not equipped to withstand heavy fishing pressure over a period of time.

Historically, there have been few shark fisheries in North America. While small, localized shark fisheries existed along the southeast coast and in the Gulf of Mexico for many years, sharks were underutilized until the late 1930s. Starting in 1938, intensive shark fisheries developed in several states and were initiated by the high demand for shark livers, which are rich in vitamin A. By the early 1950s, these fisheries ceased to operate due to a combination of factors including the synthesis and importation of vitamin A, a low demand for shark products (e.g., hides), and overexploitation.

New east coast and Gulf of Mexico shark fisheries developed in the 1980s associated with a domestic demand for shark meat and a foreign demand for shark fins. The practice known as "finning" emerged in recent years in response to the rising price of shark fins. Finning is the removal of valuable fins from sharks and discarding the remainder of the shark at sea. The dried fins may bring Florida fishermen as much as $22 per kilogram and may account for up to half the value of their catch. Although the extent of finning is unknown, this practice has brought considerable outcry from the public objecting to it as wasteful and cruel.

NOAA regulations at 50 CFR 602.11(c) require that each fishery management plan specify, to the maximum extent possible, an objective and measurable definition of overfishing for each stock or stock complex covered by the plan. The proposed FMP would define overfishing as follows: (1) For a stock at a level sufficient to produce MSY on a contining basis, overfishing is a fishing mortality rate exceeding the fishing mortality rate that would produce MSY on a continuing basis; and (2) for a stock at a level below that necessary to produce MSY on a continuing basis, overfishing is a fishing mortality rate exceeding the rate that is consistent with a stock rebuilding program established under the FMP.

The current NMFS assessment of shark resources in the U.S. Atlantic EEZ estimates that MSY for the large coastal sharks group at 3,400 metric tons (mt) a year. Catch and effort data indicate that this group, normally those targeted by commercial shark longline and gillnet fisheries and by the southern shark tournament fisheries, has been the most significantly affected by fishing pressure. MSY was exceeded in 1987 by 139 mt, in 1988 by 795 mt, in 1989 by 2,438 mt, and in 1990 by 1,635 mt. The evidence clearly shows that the large coastal species group is overfished.

The NMFS stock assessment indicates that the small coastal and pelagic species groups are fully utilized (fishing mortality rates are at or close to the MSYs). The MSYs for the small coastal and pelagic groups are estimated at 3,600 mt and 2,800 mt respectively. Small coastal sharks are typically caught in recreational fisheries (headboats and privately owned boats) and as discarded bycatch in the Gulf of Mexico shrimp trawl fisheries. The largest component of the small coastal species catch is in the shrimp trawl bycatch.

Pelagic sharks are caught commercially primarily as a bycatch of the commercial tuna and swordfish longline fisheries as well as exploited by recreational fisheries in the mid-Atlantic area. Trans-Atlantic migrations of these sharks are common and this species group is exploited by several nations.

The optimum yield (OYs) for the three shark species groups are defined by the FMP as specific annual harvest levels (total of commercial and recreational catches) that will produce MYS for the two species groups not overfished (pelagics and small coastals) or that will allow rebuilding of the overfished species group (large coastals) to a level that will produce MSY. The OYs are 1,900 mt for the large coastals group, 3,600 mt for the small coastals group, and 2,800 mt for the pelagics group.

Proposed Fishery Management Measures

The proposed FMP is intended to conserve shark resources by protecting those fully utilized stocks from overfishing and by rebuilding those stocks already overfished.

The proposed FMP's management unit contains 39 species of sharks found in the western North Atlantic Ocean. These species are frequently caught in commercial or recreational fisheries. The present state of knowledge precludes management on an individual species basis; the 39 species in the management unit are separated into three group for assessment and regulatory purposes: large coastal sharks (22 species), small coastal sharks (7 species), and pelagic sharks (10 species). Thirty-four additional species are included in the proposed FMP for date collection purposes but are not part of the management unit. Most of these 34 species are small, deep-water sharks taken incidentally in other directed fisheries; also included are the spiny and smooth dogfishes that are extremely abundant and currently in low demand.

The proposed FMP addresses or discusses problems in the fishery including: (1) Overfishing; (2) lack of management; (3) "finning" (harvesting sharks for fins alone); (4) bycatch mortality of sharks in other fisheries and mortality of marine mammals and endangered species in shark fisheries; (5) inadequate fishery and resources information; (6) limited public education; and (7) habitat losses and degradation. The FMP's management objectives are to: (1) Prevent overfishing; (2) encourage management of shark resources throughout their range; (3) establish a shark resource data collection, research, and monitoring program; and (4) increase benefits from shark resources to the U.S. while reducing waste, consistent with the other objectives.

The proposed FMP would do the following to address fishery problems and meet stated objectives: (1) Establish an annual commercial quota for large coastal species of 1,450 mt per fishing year, commencing July 1, 1992; (2) establish an annual commercial quota for pelagic species of 1,600 mt per fishing year, commencing July 1, 1992; (3) establish a fishing year for the shark fishery of July 1 though June 30; (4) close the commercial fishery for a species group for the remainder of a fishing year once its commercial quota is reached or is projected to be reached; (5) establish recreational bag limits in the EEZ of two sharks per fishing vessel per trip for large coastal and pelagic species combined, and five per person per day for small coastal species; (6) require annual permits for commercial shark fishing vessels and condition receipt of the permit on the recipient's agreement to abide by the Federal regulations for all shark harvested regardless of where such sharks are harvested (inside or outside the EEZ); (7) limit the sale of sharks harvested in the EEZ to those caught by permitted shark fishermen; (8) establish a minimum size limit for mako sharks of 66 inches (167.64 centimeters) from the tip of the snout to the fork of the tail, or an equivalent length measurement if the head or tail is removed; (9) prohibit "finning" and require fins to be landed in proportion to the carcasses landed; (10) require sharks that are not harvested as part of the commercial quota or under the bag limits to be released in a manner ensuring maximum probability of survival; (11) require written reports from the owners or operators of permitted vessels and persons conducting shark tournaments; (12) require permitted vessels to accommodate observers upon request; (13) authorize the Assistant Administrator to implement or adjust certain management measures in accordance with an established regulatory procedure; and (14) establish a total allowable level of foreign fishing (TALFF) of zero.

When the commercial quota for a species group is reached or is projected to be reached, the appropriate fishery would be closed for the remainder of the fishing year. At least 5 days notice of such closure would be given. Fishery participants would have at least that amount of time to land and sell their on-board catch of the applicable species. Associated fins would have to be removed from the vessel when the carcasses are removed but could be retained (up to 30 days later) for subsequent sale.

Until issuance of an FMP and its implementation through final regulations, management of foreign fishing for sharks in the EEZ of the Atlantic Ocean continues to be regulated under the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks (PMP) and implementing regulations at 50 CFR 611.60 and 611.61. The proposed FMP summarizes the management measures in the PMP that apply to foreign fishing for sharks in the Atlantic EEZ. The proposed FMP would adopt these measures, by reference to the PMP, with some changes. The PMP management measures that apply to foreign fishing reporting requirements, the presence of U.S. observers on foreign fishing vessels, and the incidental catch of sharks by foreign fishing vessels are adopted by the FMP in their entirety. These measures include the requirement that all foreign vessels carry a U.S. observer, the prohibition on retention of prohibited species (*i.e.*, species that a foreign vessel is not specifically allocated or authorized to retain), and seasonal closures to avoid gear conflicts with domestic fishermen. The PMP established a TALFF for Atlantic sharks; the last notice of foreign fishing specifications under 50 CFR 611.60 indicated a TALFF of 1,150 mt. (52 FR 3248, February 3, 1987). Under the proposed FMP, domestic annual harvest (DAH) would equal the optimum yield (OY) resulting in TALFF of zero. Therefore, the proposed FMP would prohibit directed or incidental foreign fishing for sharks in the Atlantic EEZ. Sharks taken by foreign vessels as bycatch would have to be released in a manner as to insure maximum probability of survival: For hooked sharks, by cutting the line as close to the hook as possible without removing the animal from the water; for net-caught sharks, by releasing the animal as quickly and gently as possible. The FMP measures applying to foreign fishing for sharks in the EEZ of the Atlantic Ocean, as for the PMP measures, would be implemented through regulations at 50 CFR 611.60, 611.61, and other relevant sections of 50 CFR part 611. Specifically proposed regulatory changes in §§ 611.60 and 611.61 also reflect that all management measures pertaining to foreign fishing for Atlantic billfishes (defined under the PMP to mean all species of marlin, spearfish, sailfish, and swordfish) would be incorporated under the approved and implemented Fishery Management Plan for Atlantic Billfishes, implemented October 28, 1988 (53 FR 37765, September 28, 1988), and the

Fishery Management Plan for Atlantic Swordfish, implemented September 18, 1985 (50 FR 33952, August 22, 1985).

Under the terms of the proposed FMP, an applicant for an annual commercial vessel permit must certify and document that he/she derived more than 50 percent of earned income from commercial fishing (*i.e.*, sale of catch, or from charter or headboat operations) during the calendar year preceding the application. The Gulf of Mexico Fishery Management Council has recommended that this requirement be changed to require that the applicant, during one of the 2 calendar years preceding the application, has derived more than 50 percent of earned income from commercial, charter or headboat fishing or that his/her gross sales of fish were more than $20,000. An earned income requirement based solely on the previous year's earned income may unfairly exclude a fishermen who was unable to fish due to illness or temporary loss of his/her vessel. A threshold level of $20,000 in gross sales may be appropriate for determining status as a full time commercial fisherman, without regard to whether that amount constitutes 50 percent of earned income. NMFS is interested in public comment on these alternative income criteria for a commercial permit.

During public review of the FMP/DEIS, NMFS received comments concerning the reliability of the fishery data and the validity of the stock assessment used by NMFS as a basis for establishing the total allowable level of catch designed to rebuild overfished shark resources; many comments on other issues were also received. NMFS will respond to all of these comments, as well as those concerning the proposed rule, in the issuing a final FMP and implementing it through final regulations. A summary of public comments and agency repsonses will be included in the preamble of the final rule.

Anticipated Impacts of the Management Program

General

The proposed FMP would place 39 species of sharks under Federal management within the EEZ. The proposed management measures should rebuild the large coastal species group to a level capable of producing MSY by the year 2000 and should stabilize the small coastal and pelagic species grups at levels at or near those producing MSY. The proposed measures are not expected to have any predictable negative ecological impacts as they are designed to rebuild overfished resources, prevent overfishing, and promote conservation. In addition, the proposed measures should not have any impact on the physical environment or the habitat necessary to maintain the biological integrity of the resource. Short-term economic costs to fishermen and processors are expected as the growth of the commercial fishery is curtailed through the imposition of catch quotas. However, these costs are expected to be outweighed by long-term environmental and economic benefits through rebuilding depleted stocks and preventing overfishing of other stocks. The management measures are designed to improve significantly the available data on the condition of the stocks and the operation of the fishery; this information is necessary for adjusting the management program to optimize the benefits from the resource.

Recreational Fishery Bag Limits

Fishermen in the EEZ subject to the recreational bag limits would be limited to two sharks per fishing vessel per trip for large coastal species and pelagic species combined, and to five small coastal species per person per day. This measure will not affect the authority of the coastal states to establish bag limits in their waters where 64 percent of recreational fishing mortality (by numbers of sharks killed) has occurred during the period 1984–88. However, NMFS encourages the states to adopt bag limits compatible with Federal measures in the EEZ. Compatible state bag limits would greatly enhance the effectiveness and enforceability of the Federal bag limits while still meeting most needs for home meat consumption. Sport fisherman will not be restricted to the number of sharks caught as long as they comply with the bag limit and release those sharks not retained in a manner ensuring maximum probability of survival. The proposed two-fish per boat trip limit should not affect approximately 79 percent of recreational boat trips, but is expected to reduce overall recreational landings by about 43 percent from the 1990 level. In addition, the requirement to release uninjured those sharks not harvested under the bag limits is expected to result in a significant reduction in recreational fishing mortality. Some fishermen may object to the bag limit and the requirement to release uninjured all sharks caught over the limit. However, recreational catch-and-release shark fishing can continue after the bag limit is taken; the bag limit measure should not significantly affect the recreational fishing experience. Recreational fishermen generally release more sharks than they land, which argues that retention of catch contributes a relatively small part of overall satisfaction from a shark fishing trip. To the extent that reduced recreational fishing mortality contributes to the stability of the shark populations and sustains the level of recreational fishing at recent levels, there would be net benefits to the recreational fishery from the bag limit restrictions over the long-run compared to imposing no such measures.

Sale Restrictions

The FMP would prohibit the sale of sharks caught in the EEZ by persons not fishing under a Federal vessel permit. This measure is not expected to have any significant economic impacts. Currently, only about 10 percent of recreationally caught sharks are sold. The care necessary to produce palatable shark meat and the general lack of facilities available to recreational fishermen for such care already limit the marketability of recreationally caught sharks. Some reductions in shark landings and overall fishing mortality are expected in shark fishing tournaments as sponsors of such events move toward catch-and-release tournaments and impose other restrictions and bag limits. Tournament directors are encouraged to establish additional specific fishing restrictions that promote shark conservation and the reduction of waste. Possible measures include minimum size and weight limits based on the biology of individual species caught in the tournaments and even more restrictive bag limits (e.g., one shark per boat per trip).

Mako Minimum Size Limit

Mako sharks are the most valuable of the sharks in the management unit because of the quality and price of their meat and their prized fighting ability to anglers. The minimum size limit for mako sharks should result in more fish reaching sexual maturity. Small mako sharks retrieved dead on the line in the commercial fishery may be retained as a means of reducing waste, but will be counted against the commercial quota.

Fishing Year

The FMP establishes a fishing year beginning July 1 of each year (ending June 30 of the next year). It is expected that the commercial fishing season will be less than 12 months for the large coastal and pelagic sharks since quotas will probably be taken before the end of the year. This expected shortened season will unavoidably increase fishing activity during the early part of the season, raise certain costs, and alter the

traditional supply and price situation. The short-term results may be lower profits for commercial fishermen and lower consumer surplus resulting from less product and less availability for fresh product during the closed fishery periods. The July 1 start of each fishing year should ensure that the commercial fishery is opened when the resource is available coastwide, allowing fishermen off the northern and southern states concurrent access to the fishery. Additionally, the quotas would likely be reached and the commercial fishery closed late April to mid-June when most female sharks are delivering pups.

Commercial Quotas

Fishermen in the commercial shark fishery for large coastal species should initially be adversely affected by the management measures. The restrictive annual quota of 1,450 mt (compare with landings of 5,537 mt in 1989 and some 3,600 mt in 1991) will result in negative economic impacts on the commercial fishery and accompanying losses in consumer surplus in the short run while the resource is rebuilding. The annual quotas for this group are expected to increase under the rebuilding program until the year 2001 when the stock should sustain the MSY of 3,400 mt (2,600 mt allocated as commercial quota and 800 mt allocated to the recreational fishery). The yield from the large coastals fishery is expected to stabilize after 2001; significant positive economic benefits should accrue thereafter. Without management, in a few years the commercial fishery for large coastal species would probably no longer be viable.

Fishermen harvesting pelagic species as bycatch in the swordfish and tuna fisheries are not expected to be as seriously affected by the management measures. The annual commercial quota of 1,600 mt approximates the average landings during the period 1986–1989. More recent landings of pelagic sharks and expected landings in 1992 may be significantly lower than the 1986–89 average. In the possible event that 1992 landings are below the 1,600 mt quota, no adverse economic effects would be expected. It is noted that a scientific stock assessment was not conducted for the pelagic species group because of data limitations; this group's biological status is largely unknown even through current landings indicate significant exploitation. It is possible that a restrictive quota for large coastals would result in fishermen moving to catch more pelagics and that this group's quota could be met.

Approximately 124 commercial vessels participated in 1989 in a directed shark fishery for at least one trip. Although the total number of vessels capable of commercial shark fishing is unknown, those holding Atlantic swordfish permits (about 700) would represent a minimum estimate of this number. Accordingly, between 124 and 700 vessels constitute the population of commercial shark fishing vessels that potentially would be impacted by commercial quotas. The projected landings of large coastal sharks under the proposed rebuilding schedule compared to a no-management alternative would be expected to generate an additional exvessel value of approximately $3.8 million over the period 1992–2006. The proposed quota for pelagic sharks is not expected to change landings since the quota is at the level of recent harvests.

Should future fishery closures for any of the species groups extend for a considerable part of the fishing year, difficulties may occur in reestablishing a shark meat market after the closure, particularly if dealers rely on imports to replace scarce domestic supplies.

Finning Prohibition

The FMP prohibits "finning" and requires landing of fins in proportion to the number of carcasses landed; currently, fishing practices frequently involve landing only the fins from pelagic sharks. Finning is believed to occur primarily in association with pelagic longlining for tuna and swordfish. This measure is intended to minimize a growing wasteful fishery practice. To the extent that it is not economically feasible for some fishermen to land whole sharks, the requirement to land carcasses along with fins may result in the release of both live and dead sharks currently taken for fins alone—some fishermen may elect to save their freezer space for more valuable carcasses such as tuna or swordfish. Some reduction in fishing mortality of pelagic sharks may result as those fishermen who were only interested in the valuable fins might drop out of the fishery. Largely because of the lack of adequate information about the extent of finning, it is currently difficult to quantify the costs and benefits of this measure.

Release Requirements

The FMP's requirement that sharks not harvested as part of the commercial quota or under the bag limits be released alive and in a manner ensuring maximum probability of survival should reduce fishing mortality. It is estimated that this measure, along with the prohibition on finning, could reduce the fishing mortality of sharks caught as bycatch in the longline fishery by as much as 50 percent from the 1979–88 average, assuming full compliance. It is recognized that this measure is difficult, if not impossible, to enforce. Reduction of bycatch mortality based on this measure, including elimination of the purposeful killing of sharks, could provide the basis for subsequent increases in commercial quotas and recreational bag limits.

Vessel Permits and Reporting Requirements

The requirement for an annual vessel permit is not expected to have any direct economic impact on the fishery in terms of quantity and value of landings. The income requirement for commercial permits that at least 50 percent of an applicant's earned income must be derived from commercial, charter, or headboat fishing would limit vessel permit holders to persons with some commercial, charter, or headboat fishing experience (see earlier discussion of alternative income requirements). The permit requirement would increase the cost of doing business by the cost of the permit. Fees for permits are limited by the Magnuson Act to the administrative costs associated with reviewing applications and issuing permits and are periodically calculated in accordance with the NOAA Finance Handbook. Currently, the fee for an application for a shark permit would be $34 and for a replacement permit would be $7.

The application procedures for obtaining a commercial fishing permit would be made effective upon publication of the final implementing regulations. Up to 90 days may be required for NMFS to process applications and issue permits to applicants. Initial permits will have varying expiration dates depending on the applicant's birthdate. Subsequent permits will be issued for annual periods.

The proposed FMP requirement that permitted fishermen submit sales receipts or trip tickets involving any landed sharks should minimize reporting costs (the specific costs are estimated in conjunction with the request to OMB for approval of the new collections of information under the Paperwork Reduction Act). Additional reporting costs will be incurred by those vessels selected by the Science and Research Director to maintain logbooks. The management benefits to the fishery participants, as well as to the shark resources, from obtaining better data are expected to outweigh the permitting and reporting costs.

The proposed requirement that selected tournament operators report catch and effort data would impose minimal costs on fishery participants. Increased recordkeeping costs should be more than offset by improved fishing resulting from management's efforts to ensure healthy stocks. Most tournaments keep careful records on catch to determine winners and probably monitor effort, at least to the extent necessary to eliminate fishing methods not conforming to tournament rules. Therefore, it is likely that little increase in recordkeeping would be required, and the only additional cost would be the minimal cost of providing the data to the management authority.

The requirement that a permitted vessel carry an observer when requested and pay the costs associated with having the observer aboard would reduce profits and, thus, will have some negative economic effects. However, such observer coverage is essential for determining the fishery effects on marine mammals and protected species.

Framework Regulatory Adjustment Procedure

The proposed FMP includes a framework regulatory procedure for periodically changing the principal management measures as necessary and implementing such changes in a timely manner through regulations without requiring a full FMP amendment process. Measures that may be adjusted through this procedure include the MSY estimates, commercial quotas, recreational bag limits, specification of the fishing year, the shark species included in the management unit and the groups to which they are assigned, species' size limits, and permitting and reporting requirements.

The regulatory adjustment procedure would involve annual recommendations for management changes by an Operational Team (OT) comprised of staff representatives of the NMFS regional and Washington offices, the five Councils covering the east coast, Gulf of Mexico, and the Caribbean, as well as scientists from the NMFS Northeast and Southeast Fisheries Centers and from non-governmental institutions as necessary or appropriate. The OT would be appointed by the Assistant Administrator and would be responsible for monitoring the fishery, reviewing the annual NMFS Stock Assessment and Fishery Evaluation (SAFE) Report, and recommending necessary management changes annually.

The proposed framework regulatory adjustment procedure is included as an appendix to this proposed rule and public comment on it is invited. Since the procedure itself does not have specific direct effects on fishermen or processors, it will remain part of the FMP but not be codified in the regulations implementing the FMP. The regulatory adjustment procedure itself should not have direct measurable biological or economic effects. The environmental and socioeconomic costs and benefits associated with specific proposed regulatory adjustments will be evaluated and made available for public review and comment prior to their implementation, as required by the procedure and by Federal law. This measure is expected to provide strong positive benefits because it should, over time, help ensure the optimal utilization of shark resources.

Changes to the Foreign Fishing Regulations at 50 CFR 611.60 and 611.61

The proposed changes in the regulations governing foreign fishing for sharks in the Atlantic EEZ, which previously were based only on the PMP, are intended to reflect primarily the transfer of management measures affecting foreign fishing from the PMP to the fishery management plans not only for Atlantic sharks but to those for Atlantic billfishes and swordfish. These changes should have no biological, economic, or social impacts because no Atlantic sharks have been harvested by foreign vessels in the EEZ since the early 1980s. The change in TALFF from the current 1,150 mt will be accomplished through the next notice of foreign fishing specifications as provided for by 50 CFR 611.20 and 611.60.

Impacts on Endangered and Threatened Species and Marine Mammals

In 1989, NMFS conducted a formal consultation under section 7 of the Endangered Species Act (ESA) on the issuance of commercial fishing exemptions under section 114 of the Marine Mammal Protection Act and on associated commercial fisheries by gear type. The impacts of all U.S. fisheries, including Atlantic shark fisheries, on threatened and endangered species were assessed. The consultation concluded that U.S. fisheries activities would not jeopardize the continued existence of threatened and endangered species, but may adversely affect these species. An Incidental Take Statement was issued under provisions of the ESA for the Marine Mammal Exemption Program (MMEP) for all U.S. fisheries (again including the Atlantic sharks fisheries) that allowed the take of certain numbers of sea turtles and shortnose sturgeon in these fisheries. The reasonable and prudent measures that NMFS believed necessary to minimize the impacts of the shark fisheries on listed species were indicated in the Incidental Take Statement for the MMEP and included: (1) NMFS should implement regional observer programs to document incidental capture, injury, and mortality of listed species (emphasize monitoring of gillnet and longline fisheries taking sharks directly or indirectly); (2) all incidents of take of listed species should be reported to NMFS within 10 days of the take; (3) sea turtle taken incidentally must be handled with care to prevent injury to live animals, observed for activity, and returned to the water; and (4) NMFS should consider regulations to reduce or eliminate mortality of listed species in areas or seasons where take of such species is likely.

Also in 1989, NMFS conducted an informal consultation under section 7 of the ESA regarding the impact of the FMP's management measures and implementing regulations on endangered and threatened species. The consultation concluded that the proposed measures would not adversely affect such species but that the operations of the various shark fisheries under management may adversely affect endangered or threatened species. In April 1991, NMFS initiated a formal section 7 consultation under the ESA on the directed and incidental Atlantic shark fisheries to be managed under the FMP. This formal consultation resulted in a Biological Opinion (Opinion) issued September 23, 1991, that concluded the following: (1) concurrence with the conclusions of the formal section 7 consultation in conjunction with the MMEP (no jeopardy to any listed species); (2) concurrence with the informal section 7 consultation in 1989 regarding the effects of the FMP's proposed management measures; (3) that neither the proposed FMP management action nor shark fishing that would be authorized by the FMP are likely to jeopardize the continued existence of any listed species; and (4) that fisheries taking sharks directly or as bycatch may adversely affect endangered or threatened marine mammals, sea turtles, and fish by injury or mortality. Specifically, NMFS anticipates that the shark fisheries (direct and incidental) may result in the injury or mortality of loggerhead, leatherback, green, Kemps ridley, and hawksbill turtles as well as shortnose sturgeon. Incidental take levels for these listed species were established in the July 5, 1989, section 7 consultation for the MMEP and are considered valid for

the 1991 Opinion. The Opinion indicated that the proposed commercial quotas and reporting and observer requirement may reduce the likelihood of incidental catches of protected species in the shark fisheries, and will improve the data base regarding such takes. Finally, in compliance with ESA requirements for actions that may involve a take of listed species, NMFS issued an Incidental Take Statement (ITS) specifying the impact of the incidental takings and specifying reasonable and prudent measures necessary to minimize impacts (essentially the same measures included in the ITS for the MMEP). The ITS and the reasonable and prudent measures are contained in the Opinion issued September 23, 1991.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that the proposed FMP and the proposed implementing regulations will promote conservation and management of sharks in the Atlantic Ocean and are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. In making a final determination, the Assistant Administrator will take into account the data, views, and comments received during the comment period.

The Assistant Administrator prepared a Draft Environmental Impact Statement (DEIS) that discusses the expected impacts on the human environment as a result of the proposed FMP and this proposed rule. A notice of availability of the DEIS and a request for comments was published on January 17, 1992 (57 FR 2093). A copy of the DEIS may be obtained from NMFS (see **ADDRESSES**). A Final Environmental Impact Statement will be prepared and filed with the Environmental Protection Agency in support of final agency action.

The Assistant Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted as proposed, is not likely to result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions, or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Assistant Administrator's determination is based on a Regulatory Impact Review (RIR) that concludes this rule will have the following economic effects: (1) Significantly reduced commercial catches, particularly for the large coastal species group, with associated substantial reductions in fishery revenue to commercial fishermen over the near-term (several years); (2) significantly positive net economic benefits from the commercial quotas and recreational bag limits over the long-term (approximately 6 years and beyond) because of the rebuilding of overfished stocks, the prevention of overfishing of presently fully utilized stocks, and the avoidance of a fishery collapse from unchecked increases in commercial and recreational fishing mortality (estimated present value of cumulated net benefits from the large coastals group is about $3.8 million by the year 2006); (3) short-term reductions in consumer surplus resulting from less shark meat and fin products in the marketplace followed by significant economic gains over the long-term; and (4) generally net economic benefits of the other FMP measures (live release conditions, finning prohibition, mako minimum size, regulatory adjustment procedure, and reporting requirements for commercial fishermen and tournament operators) over both the short- and long-term. Some measures, particularly requirements for reporting and vessel observers, will involve measurable costs to fishermen without easy-to-measure benefits, but are considered necessary to implement the FMP effectively and to realize the overall long-term net benefits from the shark resources. A copy of the RIR is available from NMFS (see **ADDRESSES**).

The NMFS prepared an initial regulatory flexibility analysis (IRFA) as part of the regulatory impact review, which concludes that this proposed rule, if adopted as proposed, would have significant effects on small entities as specified under the Regulatory Flexibility Act. Those small entities directly involved in the fishery and potentially affected by this rule include commercial fishing vessels (approximately 800), processors/dealers (unknown number), and charterboats and head boats providing recreational fishing for a fee (several hundred). The rule is likely to result in a reduction in annual gross revenues by about 5 percent for some, but not necessarily all, of these small entities. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

The Assistant Administrator determined that this proposed rule, if adopted as proposed, would be implemented in a manner that is consistent to the maximum extent practicable with the coastal zone management programs of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management programs (New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana). This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule contains four new collection-of-information requirements subject to the Paperwork Reduction Act: (1) Applications for annual vessel permits; (2) submission of logbooks and copies of sales receipts/trip tickets by vessels off-loading sharks; (3) tournament operator reports; and (4) advance notification of shark fishing trips. Requests to collect this information have been submitted to the Office of Management and Budget (OMB) for approval. The public reporting burdens for these collections of information are estimated to average 15, 15, 30, and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

This proposed rule involves three existing collection-of-information requirements that have already been approved by OMB: (1) The requirement that foreign vessels submit quarterly reports (OMB Control No. 0648–0075) is restated for clarity; (2) copies of sales receipts/trip tickets by vessels off-loading sharks, if not submitted with the shark logbook forms, are to be submitted with existing vessel logbook forms (OMB Control No. 0648–0016); and (3) the requirement to make sharks available for inspection and to answer questions regarding catch and effort (OMB Control Nos. 0648–0013 and 0648–0229) would make a currently voluntary information program mandatory. The public reporting burdens for these existing collections of information are estimated to average 35, 6, and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including

suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

A federalism assessment was prepared that concludes that implementation of this proposed rule would be consistent with the principles, criteria, and requirements of E.O. 12612.

List of Subjects

50 CFR Part 611

Fisheries, Fishing, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 2, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 611 is proposed to be amended and a new part 678 is proposed to be added as follows:

PART 611—[AMENDED]

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, *and 16 U.S.C. 1361 et seq.*

2. In § 611.60, in paragraph (d), the phrase "Atlantic Ocean, Gulf of Mexico and Caribbean Sea" is revised to read "Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea"; and paragraph (a) is revised to read as follows:

§ 611.60 General provisions.

(a) *Purpose and scope.*

(1) This subpart regulates:

(i) All foreign longline fishing conducted under a GIFA that involves catching, processing, or receipt of swordfish, billfish, sharks, or other fish in the EEZ in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea; and

(ii) All other foreign fishing conducted under a GIFA within the EEZ south of 35°00'N. latitude in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

(2) Regulations governing fishing by vessels of the United States for swordfish, billfish, or sharks off the Atlantic, Gulf of Mexico, and Caribbean coastal states are published at parts 630, 644, and 678 of this chapter.

(3) The terms *swordfish, billfish,* and *shark,* as used in this subpart, are defined at §§ 630.2, 644.2, and 678.2 of this chapter.

* * * * *

3. In § 611.61, paragraph (d) is removed and reserved; and the section heading, paragraphs (a) and (b)(1), the text of (b)(2) before the table, and paragraphs (c)(3) and (e) are revised to read as follows:

§ 611.61 Atlantic swordfish, billfish, and shark incidental catch fishery.

(a) *Purpose.* This section governs all foreign fishing conducted under a GIFA that involves the catching of swordfish, billfish, or sharks in the EEZ in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

(b) * * *

(1) Except as provided in paragraph (b)(2) of this section, foreign fishing under this section may be conducted throughout the year. Because there are no allocations for swordfish, billfish, or sharks, the closure provisions of § 611.13(a)(1) through (a)(3) do not apply to this section.

(2) From June 1 through November 30, foreign vessels fishing under this section, and longline gear deployed from such vessels, are prohibited in the area defined by the following coordinates in the order listed: * * *

* * * * *

(c) * * *

(3) All swordfish, billfish, and sharks must be released at the surface of the water by cutting the line without removing the fish from the water.

* * * * *

(e) *Statistical reporting.*

(1) A foreign vessel fishing under this section is exempt from the requirements of §§ 611.4(f)(2) and 611.9(d), but must provide the reports required by § 611.4(f)(3) and (f)(4), when applicable. In addition, each vessel must submit the following additional quarterly reports:

(i) Catch and effort data, summarized weekly by one degree squares, containing the following information:

(A) Number of hooks set.

(B) Number of prohibited species (by species code from Appendix D to subpart A) caught and released.

(C) Number of prohibited species (by species code) released alive.

(ii) Summary of vessel activities containing the following information:

(A) Permit number of each vessel fishing.

(B) For each successive day of the reporting period, the vessel's noon-day location (within 0.1 degree of latitude and longitude).

(2) The quarterly reports required by paragraph (e)(1) of this section must be submitted not later than 60 days from the end of the quarter for which the report is being made to: Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305-361-5761.

* * * * *

4. A new part 678 is added to read as follows:

PART 678—ATLANTIC SHARKS

Subpart A—General Provisions

Subpart B—Management Measures

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions.

§ 678.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP) prepared by the Secretary of Commerce.

(b) This part governs conservation and management of sharks in the management unit.

§ 678.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Charter vessel means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a permit issue under § 678.4 is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat means a vessel that holds a valid Certificate of Inspection issued by the Coast Guard to carry passengers for hire. A headboat with a permit issued under § 678.4 is considered to be operating as a headboat when it carries

a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Landed or *landing* means to arrive at a dock, berth, beach, seawall, or ramp.

Large coastal species means any of the species, or a part thereof, listed in paragraph (1) of the definition of *management unit*.

Management unit means the following species in the western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea:

(1) Large coastal species:

Basking Sharks—Cetorhinidae

Basking shark, *Cetorhinus maximus*

Hammerhead Sharks—Sphyrnidae

Great hammerhead, *Sphyrna mokarran*
Scalloped hammerhead, *Sphyrna lewini*
Smooth hammerhead, *Sphyrna zygaena*

Mackerel Sharks—Lamnidae

White shark, *Carcharodon carcharias*

Nurse Sharks—Ginglymostomatidae

Nurse shark, Ginglymostoma cirratum

Requiem Sharks—Carcharhinidae

Bignose shark, *Carcharhinus altimus*
Blacktip shark, *Carcharhinus limbatus*
Bull shark, *Carcharhinus leucas*
Caribbean reef shark, *Carcharhinus perezi*
Dusky shark, *Carcharhinus obscurus*
Galapagos shark, *Carcharhinus galapagensis*
Lemon shark, *Negaprion brevirostris*
Narrowtooth shark, *Carcharhinus brachyurus*
Night shark, *Carcharhinus signatus*
Sandbar shark, *Carcharhinus plumbeus*
Silky shark, *Carcharhinus falciformis*
Spinner shark, *Carcharhinus brevipinna*
Tiger shark, *Galeocerdo cuvieri*

San tiger Sharks—Odontaspididae

Bigeye sand tiger, *Odontaspis noronhai*
Sand tiger shark, *Odontaspis taurus*

Whale Sharks—Rhincodontidae

Whale shark, *Rhincodon typus*

(2) Small coastal species:

Angel sharks—Squatinidae

Atlantic angel shark, *Squatina dumerili*

Hammerhead Sharks—Sphyrnidae

Bonnethead, *Sphyrna tiburo*

Requiem Sharks—Carcharhinidae

Atlantic sharpnose shark, *Rhizoprionodon terraenovae*
Blacknose shark, *Carcharhinus acronotus*
Caribbean sharpnose shark, *Rhizoprionodon porosus*
Finetooth shark, *Carcharhinus isodon*
Smalltail shark, *Carcharhinus porosus*

(3) Pelagic species:

Cow Sharks—Hexanchidae

Bigeye sixgill shark, *Hexanchus vitulus*
Sevengill shark, *Heptranchias perlo*
Sixgill shark, *Hexanchus griseus*

Mackerel Sharks—Lamnidae

Longfin mako, *Isurus paucus*
Porbeagle shark, *Lamna nasus*
Shortfin mako, *Isurus oxyrinchus*

Requiem Sharks—Carcharhinidae

Blue shark, *Prionace glauca*
Oceanic whitetip shark, *Carcharhinus longimanus*

Thresher Sharks—Alopiidae

Bigeye thresher, *Alopias superciliosus*
Thresher shark, *Alopias vulpinus*

Pelagic species means any of the species, or a part thereof, listed in paragraph (3) of the definition of *management unit*.

Regional Director means the Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, telephone 813–893–3141, or a designee.

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761, or a designee.

Shark means any of those species that comprise the management unit, or a part thereof.

Shark tournament means any fishing competition involving sharks in which participants must register or otherwise enter or in which a prize or award is offered for catching a shark.

Small coastal species means any of the species, or a part thereof, listed in paragraph (2) of the definition of *management unit*.

Trip means a fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

§ 678.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) and (c) of this section.

(b) In accordance with regulations issued under the Marine Mammal Protection Act of 1972, as amended, it may be unlawful for a commercial fishing vessel, a vessel owner, or a master or operator of a vessel to engage in a longline or gillnet shark fishery in the Atlantic Ocean (including the Gulf of Mexico and Caribbean Sea) unless the vessel owner or authorized representative has complied with specified requirements including, but not limited to, registration, exemption certificates, decals, and reports, as contained in 50 CFR part 229.

(c) Regulations governing fishing in the EEZ by vessels other than vessels of the United States appear at 50 CFR part 611, subpart A, and §§ 611.60 and 611.61 of subpart D.

§ 678.4 Permits and fees.

(a) *Applicability.*

(1) To sell a shark taken in the EEZ or to be eligible for exemption from the bag limits specified in § 678.22(b) for a shark taken in the EEZ, an owner or operator of a fishing vessel must obtain an annual vessel permit.

(2) A qualifying owner or operator or a charter vessel or headboat may obtain a permit. However, a charter vessel or headboat must adhere to the bag limits when operating as a charter vessel or headboat.

(3) For a vessel owned by a corporation or partnership to be eligible for a vessel permit, the earned income qualification specified in paragraph (b)(2)(9)(vii) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator.

(4) A vessel permit issued upon the qualification of an operator is valid only when that person is the operator of the vessel.

(5) An owner or operator who applies for a permit under paragraph (b) of this section must agree, as a condition of such permit, that the vessel's shark fishing, catch, and gear will be subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the EEZ, landward of the EEZ, or outside the EEZ and without regard to where such shark or gear are possessed, taken, or landed.

(b) *Application for an annual vessel permit.*

(1) An application for a vessel permit must be submitted and signed by the owner (in the case of a corporation, the qualifying officer or shareholder; in the case of a partnership, the qualifying general partner) or operator of the vessel. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate;

(ii) The vessel's name and official number;

(iii) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(iv) If the vessel owner is a corporation or a partnership, the names, addresses, and dates of birth of the two principal shareholders or partners;

(v) Name, mailing address including zip code, and telephone number of the applicant, if other than the owner;

(vi) Social security number and date of birth of the applicant and the owner

(if the owner is a corporation, the employer identification number, if one has been assigned by the Internal Revenue Service);

(vii) A sworn statement by the applicant certifying that more than 50 percent of his or her earned income was derived from commercial fishing, that is, sale of catch, or from charter or headboat operations, during the calendar year preceding the application;

(viii) Documentation supporting the statement of income, if required under paragraph (b)(3) of this section;

(ix) A sworn statement that the applicant agrees to the conditions specified in paragraph (a)(5) of this section;

(x) Any other information requested by the Regional Director concerning vessel, gear, and fisheries the vessel is used for; and

(xi) Any other information that may be necessary for the issuance or administration of the permit.

(3) The Regional Director may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(2)(vii) of this section before a permit is issued. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential, but may be released to and verified by the Internal Revenue Service.

(c) *Change in application information.* The owner of a vessel with a permit must notify the Regional Director within 30 days after any change in the application information required by paragraph (b) of this section. The permit is void if any change in the information is not reported within 30 days.

(d) *Fees.* A fee is charged for each permit application submitted under paragraph (b) of this section. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service, and may not exceed such costs. Applicable fees are specified with the application form and must be remitted with each application.

(e) *Issuance.* (1) The Regional Director will issue a permit at any time to an applicant if the application is complete and the applicant meets the earned income requirement specified in paragraph (b)(2)(vii) of this section. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable shark catch and effort reports and economic data reports, including those specified at § 678.5(a).

(2) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the Regional Director's letter of notification, the application will be considered abandonded.

(f) *Duration.* A permit remains valid for the period for which it is issued, and the conditions accepted upon its issuance remain in effect for that period, unless the vessel is sold or the permit is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(g) *Transfer.* A vessel permit issued under paragraph (b) of this section is not transferable or assignable. A person purchasing a permitted vessel who desires to fish for sharks must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of a signed bill of sale.

(h) *Display.* A vessel permit issued under paragraph (b) of this section must be carried on board the fishing vessel and such vessel must be identified as provided for in § 678.6. The operator of a fishing vessel must present the permit for inspection upon request for an authorized officer.

(i) *Sanctions and denials.* A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(j) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(k) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

§ 678.5 Recordkeeping and reporting.

(a) *Vessel reports.* (1) *All permitted vessels.* An owner or operator of a vessel for which a permit has been issued under § 678.4 must submit copies of sales receipts (trip tickets) that record the weights of fish sold from any trip from which a shark is off-loaded. Such sales receipts must be submitted as follows:

(i) The owner or operator of a vessel that has been selected by the Science and Research Director to maintain and submit the logbook forms described in paragraph (a)(2) of this section must submit the copies of the sales receipts attached to such logbook forms.

(ii) The owner or operator of a vessel that has not been selected to submit the logbook forms described in paragraph (a)(2) of this section but has been selected to maintain and submit logbook forms to the Science and Research Director in a fishery other than the shark fishery must attach the copies of the sales receipts to the logbook forms for that other fishery and submit them in the time frame required for those logbook forms.

(iii) The owner or operator of a vessel that has not been selected to submit logbook forms to the Science and Research Director in any fishery must submit the copies to the Science and Research Director postmarked not later than the third day after sale of the fish off-loaded from a trip.

(2) *Selected permitted vessels.* An owner or operator of a vessel for which a permit has been issued under § 678.4 and that is selected by the Science and Research Director must maintain and submit logbook forms for each trip on forms provided by the Science and Research Director. The logbook forms will provide a record of fishing locations, time fished, fishing gear used, numbers of each species caught, and numbers of each species discarded. Logbook forms must be maintained and submitted for each trip, whether or not shark are caught on that trip. The logbook forms must be submitted to the Science and Research Director postmarked not later than the third day after sale of the fish off-loaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(b) *Tournament operators.* A person conducting a shark tournament who is selected by the Science and Research Director must maintain and submit a record of catch and effort on forms available from the Science and Research Director. Completed forms must be submitted to the Science and Research Director postmarked not later than 7 days after the conclusion of the tournament and must be accompanied by a copy of the tournament rules.

(c) *Additional data and inspection.* Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. An owner or operator of a fishing vessel and a dealer are required to make sharks available for inspection by the Science and Research Director or an authorized officer and to provide data on catch and effort, as requested.

§ 678.6 Vessel identification.

(a) *Official number.* A vessel for which a permit has been issued under § 678.4 must display its official number—

(1) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numberals in contrasting color to the background;

(3) At least 18 inches (45.72 centimeters) in height for fishing vessels over 65 feet (19.8 meters) in length and at least 10 inches (25.4 centimers) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of each fishing vessel must—

(1) Keep the official number clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel, its rigging, its fishing gear, or any other material aboard obstructs the view of the official number from an enforcement vessel or aircraft.

§ 678.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify information required in § 678.4(b)(2) on an application for a permit.

(b) Fail to display a permit, as specified in § 678.4(h).

(c) Falsify or fail to provide information required to be maintained, submitted, or reported, as specified in § 678.5(a) or (b).

(d) Fail to make a shark available for inspection or provide data on catch and effort, as required by § 678.5(c).

(e) Falsify or fail to display and maintain vessel identification, as required by § 678.6.

(f) Falsify or fail to provide requested information regarding a vessel's trip, as specified in § 678.10(a).

(g) Fail to embark an observer on a trip when selected, as specified in § 678.10(b).

(h) Assault, resist, oppose, impede, harass, intimidate, or interfere with an NMFS-approved observer aboard a vessel.

(i) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his/her duties aboard a vessel.

(j) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 678.10(c).

(k) Remove the fins from a shark and discard the remainder, as specified in § 678.21(a)(1).

(l) Possess shark fins aboard or off-load shark fins from a fishing vessel, except as specified in § 678.21 (a)(2) and (3).

(m) Fail to release a shark in the manner specified in § 678.21(b).

(n) Possess a longfin mako or shortfin mako smaller than the minimum size limit, as specified in § 678.21(c).

(o) Exceed the bag limits, as specified in § 678.22 (a) through (c).

(p) Operate a vessel with a shark aboard in excess of the bag limits, as specified in § 678.22(d).

(q) Transfer a shark at sea, as specified in § 678.22(e).

(r) During a closure for a shark species group, retain a shark of that species group abroad a vessel that has been issued a permit under § 678.4 or sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter a shark of that species group, as specified in § 678.24.

(s) Sell, trade, or barter or attempt to sell, trade, or barter a shark harvested in the EEZ except as an owner or operator of a vessel with a permit, as specified in § 678.25(a).

(t) Purchase, trade, or barter or attempt to purchase, trade, or barter shark meat or fins harvested from the EEZ from an owner or operator of a vessel that does not have a vessel permit, as specified in § 678.25(b).

(u) Sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter shark fins that are disproportionate to the number of carcasses landed, as specified in § 678.25(c).

(v) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

(w) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a shark.

§ 678.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 678.9 Penalties.

See § 620.9 of this chapter.

§ 678.10 At-sea observer coverage.

(a) When requested by the Science and Research Director, an owner or operator of a vessel for which a permit has been issued under § 678.4 must advise the Science and Research Director in writing not less than 10 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time); and

(2) Expected landing information (port, dock, and date).

(b) If a vessel's trip is selected by the Science and Research Director for observer coverage, the owner or operator of such vessel must accommodate an NMFS-approved observer.

(c) An owner or operator of a vessel on which an NMFS-approved observer is embarked must—

(1) Provide, at no cost to the observer or the United States government, accomodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to, and use of, the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to, and use of, the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish; and

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish.

Subpart B—Management Measures

§ 678.20 Fishing year.

The fishing year is July 1 through June 30.

§ 678.21 Harvest limitations.

(a) *Finning.* (1) The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in the EEZ or aboard a vessel that has been issued a permit under § 678.4.

(2) Shark fins that are possessed aboard or off-loaded from a fishing vessel must be in proper proportion to the number of carcasses. That is, the number of fins may not exceed five per carcass.

(3) Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

(b) *Release.* A shark that is harvested in the EEZ or harvested by a vessel that has been issued a permit under § 678.4 neither as part of the commercial allocation nor under the bag limits—

(1) Must be released in a manner that will ensure maximum probability of survival, and

(2) If caught by hook and line, must be released by cutting the line near the hook without removing the fish from the water.

(c) *Size limit.* (1) The minimum size limit for the possession of a longfin mako or shortfin mako in or from the EEZ or aboard a vessel that has been issued a permit under § 678.4 is—

(i) For a shark that has head and caudal fin intact, a fork length of 66 inches (167.64 centimeters), measured in a straight line from the tip of the snout to the center of the tail (caudal fin) (see Figure 1); or

(ii) For a shark that has head or caudal fin removed, a distance between the first and second dorsal fins of 19 inches (48.26 centimeters), measured from where the rear of the first dorsal fin is attached to the body to where the leading edge of the second dorsal is attached to the body. If the dorsal fins have been removed, the 19-inch measurement must be made between the cuts that removed the dorsal fins. (See Figure 1.)

(2) The provisions of paragraph (c)(1) of this section notwithstanding, an undersized longfin mako or shortfin mako harvested by a vessel that has been issued a permit under § 678.4 that is retrieved dead may be retained.

§ 678.22 Bag limits.

(a) *Applicability.* The bag limits apply to a person who fishes in the EEZ or possesses a shark in or from the EEZ aboard a vessel—

(1) When the vessel does not have on board a permit issued under § 678.4; or

(2) When the vessel is under charter or operating as a headboat.

(b) *Bag limits.* The bag limit for—(1) Large coastal species and pelagic species combined is 2 per fishing vessel per trip; and

(2) Small coastal species is 5 per person per day.

(c) *Combination of bag limits.* A person to whom the bag limits apply may not combine a bag limit specified in paragraph (b) of this section with a bag or possession limit applicable to state waters.

(d) *Responsibility for the bag limits.* The operator of a vessel for which the bag limits apply is responsible for the bag limit applicable to that vessel.

(e) *Transfer of sharks.* A person to whom the bag limits apply may not transfer at sea a shark—

(1) Taken in the EEZ, regardless of where such transfer takes place; or

(2) In the EEZ, regardless of where such shark was taken.

§ 678.23 Commercial quotas.

Persons fishing aboard vessels for which vessel permits have been issued under § 678.4 are subject to the following quotas:

(a) Large coastal species—1,450 metric tons, whole weight, each fishing year.

(b) Pelagic species—1,600 metric tons, whole weight, each fishing year.

§ 678.24 Closures.

(a) When a commercial quota specified in § 678.23 is reached, or is projected to be reached, the Assistant Administrator will publish a notice to that effect in the **Federal Register**. The effective date of such notice will be at least 5 days after the date such notice is filed with the Office of the Federal Register.

(1) On the effective date of such notice, for the remainder of the fishing year,

(i) A person aboard a vessel that has been issued a permit under § 678.4 may not retain shark of the species group for which the commercial quota has been reached, except as provided in paragraph (a)(3) of this section; and

(ii) The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of a shark carcass of that species group harvested by a person aboard a vessel that has been issued a permit under § 678.4 is prohibited.

(2) On the date 31 days after the effective date of such notice, for the remainder of the fishing year, the sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of a shark fin of the species group for which the commercial quota has been reached harvested by a person aboard a vessel that has been issued a permit under § 678.4 is prohibited.

(3) A person aboard a charter vessel or headboat that has been issued a permit under § 678.4 may retain, subject to the bag limits specified in § 678.22(b), shark of the species group for which the commercial quota has been reached, provided the vessel is operating as a charter vessel or headboat. However, the prohibitions of paragraphs (a)(1)(ii) and (a)(2) of this section regarding sale, purchase, barter, or trade or attempted sale, purchase, barter, or trade apply to such shark.

(b) The prohibitions of paragraphs (a)(1)(ii) and (a)(2) of this section regarding sale, purchase, barter, or trade or attempted sale, purchase, barter, or trade by a dealer do not apply to trade in shark carcasses or fins that were harvested, off-loaded, and bartered, traded, or sold, for shark carcasses, prior to the effective date of the notice in the **Federal Register**, or, for shark fins, prior to 31 days after the effective date of such notice, and were held in storage by a dealer or processor.

§ 678.25 Restrictions on sale.

Subject to the restrictions of § 678.24,

(a) Upon landing, meat or fins from a shark harvested in the EEZ may be sold, traded, or bartered or attempted to be sold, traded, or bartered only by an owner or operator of a vessel that has been issued a permit under § 678.4;

(b) Upon landing, meat or fins from a shark harvested in the EEZ may be purchased, traded, or bartered or attempted to be purchased, traded, or bartered only from the owner or operator of a vessel that has been issued a permit under § 678.4; and

(c) Fins from a shark harvested in the EEZ, or by a vessel that has been issued a permit under § 678.4, that are disproportionate to the number of carcasses landed may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

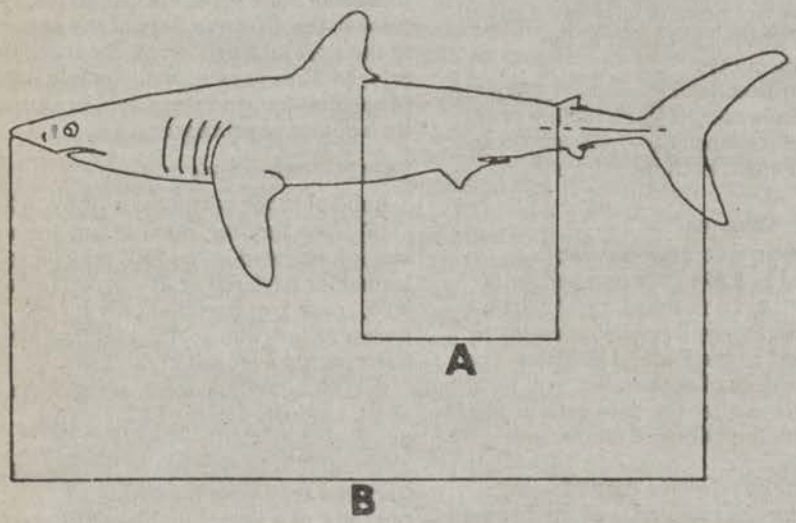
§ 678.26 Adjustment of management measures.

In accordance with the framework regulatory adjustment procedures specified in the Fishery Management Plan for Sharks of the Atlantic Ocean, the Assistant Administrator may establish or modify for a species or a species group in the shark fishery the following: maximum sustainable yield, total allowable catch, quotas, trip limits, bag limits, size limits, the fishing year or fishing season, the species of sharks managed and the specification of species groups to which they belong, and permitting and reporting requirements.

§ 678.27 Specifically authorized activites.

The Assistant Administrator may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

Figure 1 to Part 678 — Mako Shark Length Measurements



A - Interspace between 1st and 2nd dorsal fins

B - Fork length

Appendix—Framework Procedures for adjusting management measures as specified in the Shark Fishery Management Plan for the Atlantic Ocean

Note: This appendix will not appear in the Code of Federal Regulations.

a. As provided for in 50 CFR 602.12(e), the Assistant Administrator annually will assure that: a stock assessment and fishery evaluation (SAFE) report for sharks is prepared, reviewed, and changed as necessary; current fishing mortality is estimated; other appropriate population parameters are estimated (*e.g.*, revised MSY estimates); catch statistics on the fishery are analyzed; and relevant environmental, social, and economic data are evaluated.

b. The Assistant Administrator will appoint an Operational Team (OT) which includes representatives from the following: NMFS Northeast and Southeast Regional Offices and the Washington Office, the five affected Councils, NMFS Fisheries Research Centers, and others as necessary and appropriate. The OT will receive the SAFE report and other relevant data annually and, based thereon, submit a written report of its findings to the Assistant Administrator. If the OT determines that adjusting the management measures is necessary, it will include in the report specified ranges of acceptable biological catch (ABC) for individual species, species groups, or all sharks. The ABC will be calculated so as to prevent overfishing or to prevent further declines of an overfished species, species groups, or all managed species of sharks. Recommendations in the report may include implementing or changing the following: Maximum sustainable yield; total allowable catch; commercial quotas; commercial trip limits; recreational bag limits; species size limits; the fishing year or fishing season; the species of sharks managed and the species groups to which they belong; and permitting and reporting requirements. The biological, environmental, social, and economic impacts of each recommendation will be included in the report. In formulating its recommendations, the OT will consult with the Assistant Administrator, Regional Directors of the NMFS Northeast and Southeast Regions, and any intercouncil shark committee. The OT May hold public hearings as appropriate.

c. If the Assistant Administrator concurs with the OT's recommendations, he will prepare the regulatory package and file within 30 days a proposed rule and a request for public comment with the Office of the Federal Register. The regulatory package will include a discussion of the need for action; the proposed adjustments to the management measures; analyses as required by applicable law of the social, economic, and biological impacts of the proposed measures; and the proposed rule. From 15 to 30 days will be provided for public comment, consistent with the magnitude of the action.

d. After reviewing public comments and additional information or data that may be available, the Assistant Administrator will, after consultation with the OT, if appropriate, make final determinations regarding consistency of the proposed conservation and management measures with the objectives of the FMP, the national standards, and other applicable law. Within 30 days of the close of the public comment period on the proposed rule, the Assistant Administrator will publish a final rule in the Federal Register.

e. The Assistant Administrator may take action independent of the recommendations of the OT if he finds, based on the best available scientific information on the biological conditions of the shark resources or economic conditions of the fishery, that adjustments in the management measures are required. In this situation, the Assistant Administrator would follow the same procedure that the OT would follow in preparing recommendations for regulatory changes. The Assistant Administrator would consult with the OT, as necessary and appropriate.

f. The Assistant Administrator will consult with and consider the comments and views of the affected Councils in developing proposed and final adjustments in managment measures.

[FR Doc. 92–13351 Filed 6–5–92; 8:45 am]
BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 110
Monday, June 8, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-074-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits To Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 19 environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environment assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washngton, DC, 20250, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plants pets (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulate article. The Animial and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit	Permittee	Date issued	Organisms	Field test location
91-352-04	Frito-Lay, Incorporated	04-27-92	Potato plants genetically engineered to express patho-genesis-related proteins for resistance to late blight of potato.	Oneida County, Wisconsin.
92-034-01, renewal of permit 90-332-04, issued on 03-06-91.	DeKalb Plant Genetics	04-27-92	Corn plants genetically engineered to express the *bar* gene for tolerance to the herbicide bialaphos.	DeKalb County, Illinois.
92-042-02, renewal of permit 91-067-01, issued on 03-08-91.	Pioneer Hi-Bred International Incorporated.	04-27-92	Sunflower plants genetically engineered to express a methionine-rich seed storage protein from Brazil nut.	Yolo County, California.
92-002-01	Monsanto Agricultural Company.	04-29-92	Potato plants genetically engineered to express a solids mofification gene, a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *tenebrionis* (Btt), and coat protein genes from potato virus X (PVX), and potato virus Y (PVY), for resistance to Colorado potato beetle, PVX, and PVY.	Oneida and Waushara Counties, Wisconsin.
92-002-02	Monsanto Agricultural Company.	04-29-92	Potato plants genetically engineered to express a solids modification gene and a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *tenebrionis* (Btt), for resistance to Colorado potato beetle.	Essex and Suffolk Counties, New York.

Permit	Permittee	Date issued	Organisms	Field test location
92-007-01	Monsanto Agricultural Company.	04-29-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and/or a metabolizing enzyme for tolerance to the herbicide glyphosate.	Jersey County Illinois.
92-014-01	North Carolina State University	04-29-92	Tobacco plants genetically engineered to express a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki* strain HD1.	Johnson County, North Carolina.
92-049-05	Upjohn Company	04-29-92	Corn plants genetically engineered to express a phosphinothricin acetyltransferase (PAT) gene for tolerance to the herbicide glufosinate.	Kalamazoo County, Michigan; Isabela, Puerto Rico.
92-002-04	Pioneer Hi-Bred International Incorporated.	04-30-92	Corn plants genetically engineered to express a coat protein gene from a maize chlorotic mottle virus (MCMV) for reistance to MCMV, and the selectable marker phosphinothricin acetyltransferase from *S. hygro-scopicus* for tolerance to the herbicide glufosinate.	Franklin, Harlan, and York Counties, Nebraska.
92-015-02	Monsanto Agricultural Company.	04-30-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Craighead and Washington Counties, Iowa.
92-037-05	Monsanto Agricultural Company.	05-01-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Elmore County, Alabama; Crittenden and Mississippi Counties, Arkansas; Kent County, Delaware; Baker and Sumpter Counties, Georgia; Champaign, Jersey, Macon, St. Clair, and Warren Counties, Illinois; Marshall, Tippecanoe, and Tipton Countries, Indiana; Carroll, Franklin, Jasper, and Story Countries, Iowa; Caldwell, Fayette, and Hopkins Counties, Kentucky; East Baton Rouge, St. Landry, and Tensas Parishes, Louisiana; Prince Georges and Worcester Counties, Maryland; Ingham County, Michigan; Tunica and Washington Counties, Mississippi; Gentry County, Missouri; Lancaster and Saunders County, Nebraska; Allen Franklin, and Pickaway Counties, Ohio; Florence County, South Carolina; Gibson, Hardeman, and Obion Counties, Tennessee; Brazoria and Chambers Counties, Texas.
92-022-03	Pioneer Hi-Bred International, Incorporated.	05-04-92	Corn plants genetically engineered to express wheat germ agglutinin for resistance to European corn borer.	Polk County Iowa.
92-035-05	DNA Plant Technology Corporation.	05-04-92	Tomato plants genetically engineered to express an anti-sense ACC gene to delay ripening.	Contra Costa County, California.
92-080-01, renewal of permit 90-360-01, issued on 04-24-91.	University of Idaho	05-04-92	Potato plants genetically engineered to express an enzyme for tolerance to the herbicide bromoxynil.	Bingham County, Idaho.
92-080-02, renewal of permit 91-077-01, issued on 06-18-91.	Harris Moran Seed Company	05-04-92	Cantaloupe plants genetically engineered to express the coat protein gene of cucumber mosaic virus (CMV) for resistance to CMV.	Solano County, California.
92-041-01	Monsanto Agricultural Company.	05-05-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Baldwin and Macon Counties, Alabama; Arkansas and Crittenden Counties, Arkansas; Sumpter County, Georgia; Jersey County, Illinois; Warrick County, Indiana; Fremont County, Iowa; Hopkins County Kentucky; East Baton Rouge and Tensas Parishes, Louisiana; Queen Annes and Worcester Counties, Maryland; Tunica and Washington Counties Mississippi; New Madrid County, Missouri; Florence County, South Carolina; Obion County, Tennessee.

Permit	Permittee	Date issued	Organisms	Field test location
91-364-01	Dow Gardens	05-05-92	*Amelanchier laevis* plants (Allegheny Serviceberry) genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk) for resistance to lepidopteran insects.	Midland County, Michigan.
92-002-05	Pioneer Hi-Bred International Incorporated.	05-05-92	Corn plants genetically engineered to express a coat protein gene from a maize dwarf mosaic virus (MDMV) for resistance to *MDMV*, and the selectable marker phosphinothricin acetyltransferase from *S. hygroscopicus*, for tolerance to the herbicide glufosinate.	Polk County, Iowa.
92-015-05	Monsanto Agricultural Company.	05-05-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Mclean County, Illinois.

The environmental assessments and findings of an significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508, (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979).

Done in Washington, DC, this 3rd day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–13353 Filed 6–5–92; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 92–054–1]

Availability of Environmental Assessment and Finding of No Significant Impact Concerning the North Carolina Gypsy Moth Eradication Project

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is making available an environmental assessment and finding of no significant impact for the gypsy moth eradication project in the State of North Carolina. The environmental assessment provides a basis for our conclusion that the methods employed to eradicate the gypsy moth will not have a significant impact on the human environment.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies of the environmental assessment and finding of no significant impact may be obained upon request from:

(1) Thomas Flanigan, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247;

(2) Lloyd Garcia, North Carolina Department of Agriculture, P.O. Box 27647, Raleigh, NC 27611; or

(3) Mike South, Plant Protection and Quarantine, APHIS, USDA, room 316, Federal Building, P.O. Box 83, Goldsboro, NC 27530.

FOR FURTHER INFORMATION CONTACT: Thomas Flanigan, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 7 U.S.C. 147a, 148, and 450, the Secretary of Agriculture is authorized to cooperate with the States and certain other organizations and individuals to control and eradicate plant pests.

The gypsy moth, *Lymantria dispar* (Linnaeus), which is present in North Carolina, is a destructive pest of forest trees. The North Carolina Department of Agriculture, in cooperation with the U.S. Department of Agriculture (USDA), has developed a project to eradicate the gypsy moth in North Carolina and has prepared an environmental assessment (EA) to evaluate the effects of this eradication project on the environment. Based on the environmental assessment, the Animal and Plant Health Inspection Service (USDA) has determined that the eradication project in North Carolina will not have a significant impact on the human environment. The EA for this cooperative gypsy moth eradication project is supported by and tiered to the Gypsy Moth Suppression and Eradication Projects, Final Environmental Impact Statement (FEIS) as Supplemented, 1985.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 3rd day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–13352 Filed 6–5–92; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Rocky Mountain Region: Colorado, Kansas, Nebraska, South Dakota, Eastern Wyoming; Legal Notice of Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Rocky Mountain Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal.

Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR part 217 shall begin April 5, 1990.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, 11177 W. 8th Ave., Box 25127, Lakewood, Colorado 80225, Area Code 303–236–9430.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Rocky Mountain Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.5(d), the timeframe for appeal shall be based on the date of publication of a notice of decision in the primary newspaper.

Decisions by the Regional Forester

The Denver Post, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Forester will also be published in the Rocky Mountain News, published daily in Denver, Denver County, Colorado. Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisor Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: Coloradoan, published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: Greeley Tribune, published daily in Greeley, Weld County, Colorado.

Boulder District: Boulder Daily Camera, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: Clear Creek Courant, published weekly in Idaho Springs, Clear Creek County, Colorado.

Sulphur District: Sulphur Sky High News, published weekly in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel published daily in Grand Junction, Mesa County, Colroado.

District Ranger Decisions

Collbran and Grand Junction Districts: Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

Paonia District: Delta County Independent, published weekly in Delta, Delta County, Colorado.

Cebolla and Taylor River Districts: Gunnison Country Times, published weekly in Gunnison, Gunnison County, Colorado.

Norwood District: Telluride Times-Journal, published weekly in Telluride, San Miguel County, Colorado.

Ouray District: Montrose Daily Press, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo chieftain, published daily in Pueblo County, Colorado.

District Ranger Decisions:

San Carlos District: Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

Comanche District: Plainsman Herald, published weekly in Springfield, Baca County, Colorado.

Cimarron District: Tri-State News, published weeky in Elkhart, Morton County, Kansas.

South Platte District: Daily News Press, published daily in Castle Rock, Douglas County, Colorado.

Leadville District: Herald Democrat, published weekly in Leadville, Lake County, Colorado.

Salida District: The Mountain Mail, published daily in Salida, Chaffee County, Colorado.

South Park District: Fairplay Flume, published weekly in Fairplay, Park County, Colorado.

Pikes Peak District: Gazette Telegraph, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decision

Bears Ears District: Northwest Colorado Daily Press, published daily in Craig, Moffat County, Colorado. In addition, notice of decisions by the District Ranger will also be published in the Hayden Valley Press, published weekly in Hayden, Routt County, Colorado, and in the Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado.

Yampa and Hahns Peak Districts: Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado.

Middle Park District: Middle Park Times, published weekly in Kremmling, Grand County, Colorado.

North Park District: Jackson County Star, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisor Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Friday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: Aspen Times, published weekly in Aspen, Pitkin County, Colorado.

Blanco District: Meeker Herald, published weekly in Meeker, Rio Blanco County, Colorado.

Dillon District: Summit Sentinel, published twice weekly in Frisco, Summit County, Colorado.

Eagle District: Eagle Valley Enterprise, published weekly in Eagle, Eagle County, Colorado.

Holy Cross District: Vail Trail, published weekly in Minturn, Eagle County, Colorado.

Rifle District: Rifle Telegram, published weekly in Rifle, Garfield County, Colorado.

Sopris District: Valley Journal, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.

The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bessey District: The North Platte Telegraph, published daily in North Platte, Lincoln County, Nebraska.

Samuel R. McKelvie National Forest: The Valentine Newspaper, published weekly in Valentine, Cherry County, Nebraska.

Fall River and Wall Districts: The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Pine Ridge District: The Chadron Record, published weekly in Chadron, Dawes County, Nebraska.

Ft. Pierre National Grassland: The Capitol Journal, published daily in Pierre, Hughes County, South Dakota.

Black Hills National Forest, South Dakota and eastern Wyoming

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

Buffalo District: Buffalo Bulletin, published weekly in Buffalo, Johnson County, Wyoming.

Medicine Wheel District: Lovell Chronicle, published weekly in Lovell, Big Horn County, Wyoming.

Tensleep District: Northern Wyoming Daily News, published daily in Worland, Washakie County, Wyoming.

Paintrock District: Greybull Standard, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

Douglas District: Casper Star-Tribune, published daily in Casper, Natrona County, Wyoming.

Brush Creek and Hayden Districts: Rawlins Dailing Times, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decisions

Cody Enterpise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: Powell Tribune, published twice weekly in Powell, Park County, Wyoming.

Wapiti and Greybull Districts: Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

Wind River District: The Dubois Frontier, published weekly in Dubois, Teton County, Wyoming.

Lander District: Wyoming State Journal, published twice weekly in Lander, Fremont County, Wyoming.

Dated: May 26, 1992.

Tom L. Thompson,

Acting Regional Forester.

[FR Doc. 92-13288 Filed 6-5-92; 8:45 am]

BILLING CODE 3410-11-M

Southbranch Resource Management Projects, Tahoe National Forest, Placer County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for a proposal to do resource management projects, including timber harvest, on the Foresthill Ranger District, Tahoe National Forest in an area allocated for timber management.

There are three types of proposals. One proposal is to harvest timber in areas in need of improved growth and/or stocking levels. Another proposal is to open and close roads to meet timber, transportation, and wildlife and watershed protection needs. A third proposal is to establish a local water-storage facility for local wildfire suppression needs.

The Tahoe National Forest Land Resource Management Plan (LMP) was approved on June 14, 1990. This plan identified that the management emphasis in the majority of the analysis area is intensive even-aged timber management; the Plan identified a potential output of up to 14 million board feet of timber during this planning decade.

The public scoping for this proposal was conducted during 1988 and 1989. Public comments are not being solicited at this time. No further public meetings are scheduled. The scoping identified several issues related to watershed, wildlife, timber, recreation, and down-woody material. The issue which has had the most impact on the development of the alternatives is watershed because two of the subwatersheds are currently over the threshold of concern. The previous analysis, therefore, has determined that an EIS should be done.

One alternative to the timber harvest proposal is to treat all the area which is available for harvest even if it requires burning of logging debris to reforest. A second alternative is to preclude harvesting in subwatersheds that currently are at or above the threshold of concern. A third alternative eliminates harvest on steep cable ground and treats logging debris with a minimum amount of burning. The fourth alternative is to not initiate any new management activities at this time.

FOR FURTHER INFORMATION CONTACT: Slim Stout, Interdisciplinary Team Leader, Foresthill Ranger District, Foresthill, CA 95631, telephone (916) 367-2224.

SUPPLEMENTARY INFORMATION: No cooperating agency agreements have been made.

The draft EIS is expected to be available to the Environmental Protection Agency (EPA) in June 1992 for listing in the **Federal Register.** A 45-day

comment period will follow the publication of the notice of availability of the draft EIS in the **Federal Register.** The comments will be analyzed and a final EIS accompanying record of decision (ROD) will be issued.

Comments on the draft EIS should be as specific as possible, and may address the adequacy of the identification of issues, alternatives, or consequences of implementation or the merits of the alternatives as formulated and discussed in the draft. Participants may wish to refer to the Council On Evironmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act (at 40 CFR 1503.3). Participants should be aware of several court rulings related to public participation in the environmental analysis process. First, the court's decision in *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,533 (1978) established that participants should structure their input to the environmental analysis process so that it is meaningful and so that it alerts the agency to the participant's position and contentions. Second, *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Hertages, Inc.* v. *Harris,* 490 F Supp. 1334, 1338 (E.D. Wis. 1980) establish that objections that could have been raised during the draft stage but are not raised until after completion of the final EIS, may be waived or dismissed by the courts. Because of these court rulings, it is very important that those interested participate by the close of the 45-day comment period so that substantive comments and objections are available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

District Ranger Richard A. Johnson will be the responsible official for this environmental impact statement.

Dated: May 28, 1992.

John H. Skinner,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 92-13250 Filed 6-5-92; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Dewitt-Rollover Vegetative Project, LA; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dewitt-Rollover Vegetative Project, Vermilion Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473-7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Dewitt-Rollover Vegetative Project, Louisiana, Notice of a Finding of No Significant Impact.

The project consists of shoreline erosion protection for an area of beach between Dewitt Canal and Rollover Bayou. The planned works of improvement include the planting of two and one-half acres of marshhay cordgrass and smooth cordgrass along the six mile stretch of beach.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Horace J. Austin.

No administrative section on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

This activity is being conducted under the provisions of Public Law 101-646—Coastal Wetlands Planning, Protection, and Restoration Act.

Dated: May 27, 1992.

Horace J. Austin,

State Conservationist.

[FR Doc. 92-13295 Filed 6-5-92; 8:45 am]

BILLING CODE 3410-16-M

Timbalier Island Vegetative Project, LA; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Timbalier Island Vegetative Project, Terrebonne Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473-7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Timbalier Island Vegetative Project, Louisiana Notice of a Finding of No Significant Impact.

The project concerns the protection of dunes and other areas of beach shoreline on Timbalier Island. The planned works of improvement include the planting of fifteen acres of marshhay cordgrass, twenty acres of Atlantic coastal panic grass, three acres of black mangrove, five acres of smooth cordgrass, two acres of Roseau cane, and 2 acres of matrimony vine along Timbalier beach and dune area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Horace J. Austin.

No administrative section on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

This activity is being conducted under the provisions of Public Law 101-646—Coastal Wetlands Planning, Protection, and Restoration Act.

Dated: May 27, 1992.

Horace J. Austin,

State Conservationist.

[FR Doc. 92-13296 Filed 6-5-92; 8:45 am]

BILLING CODE 3410-16-M

West Hackberry Vegetative Project, LA; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the West Hackberry Vegetative Project, Cameron Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473-7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

West Hackberry Vegetative Project, Louisiana Notice of a Finding of No Significant Impact.

The project concerns the erosion protection of levees in the West Hackberry Oil Field and near Starks Canal. The planned works of improvement include the planting of 13,000 linear feet of levees using approximately 10,000 smooth cordgrass plant. The vegetation will be placed at the intertidal area of the levee and reduce wave induced erosion.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Horace J. Austin.

No administrative section on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

This activity is being conducted under the provisions of Public Law 101-646—Coastal Wetlands Planning, Protection, and Restoration Act.

Dated: May 27, 1992.

Horace J. Austin

State Conservationist.

[FR Doc. 92-13294 Filed 6-5-92; 8:45 am]

BILLING CODE 3410-16-M

ARCTIC RESEARCH COMMISSION

Arctic Research Commission, Meeting

June 3, 1992.

Notice is hereby given that the Arctic Research Commission will hold its 27th Meeting in Anchorage, Alaska, July 6, 1992. On Monday, July 6, a business meeting open to the public will be held starting at 8:30 a.m. in the Chancellor's Conference Room, Administration Building, University of Alaska. Agenda items include:

(1) Chairman's Report,

(2) Comments from agencies and organizations,

(3) Resolution of Appreciation for Mr. Oliver Leavitt,

(4) Commission review and planning discussion of Arctic policy statements, and duties and accomplishments under ARPA,

(5) Unfilled needs and expectations; and

(6) Selection of priorities for ARC activities. The Commission will meet in Executive Session following the conclusion of the public meeting.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: Philip L. Johnson, Executive Director, U.S. Arctic Research Commission, 202-371-9631 or TDD 202-357-9867.

Philip L. Johnson,

Executive Director, U.S. Arctic Research Commission.

[FR Doc. 92-13251 Filed 6-5-92; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Allocation of Duty-Exemptions for Calendar Year 1992 Among Watch Producers Located in the Virgin Islands and Guam

AGENCY: Import Administration, International Trade Administration, Department of Commerce; and Office of the Secretary, Department of the Interior.

ACTION: Notice.

SUMMARY: This action allocates 1992 duty-exemptions for watch producers located in the Virgin Islands and Guam pursuant to Public Law 97-446.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 377-1660.

SUPPLEMENTARY INFORMATION: Pursuant to Public Law 97-446, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the U.S. insular possessions and the Northern Mariana Islands. In accordance with § 303.3(a) of the regulations (15 CFR part 303), we have maintained for 1992 and 1991 total quantity of watches and watch movements (6,200,000 units) which may be entered free of duty from the insular possessions and the Northern Mariana Islands. Of this amount, 4,200,000 units may be allocated to Virgin Islands producers, 1,000,000 to Guam producers, 500,000 to American Samoa producers and 500,000 to Northern Mariana Islands producers (56 FR 9621).

The criteria for the calculation of the 1992 duty-exemption allocations among insular producers are set forth in § 303.14 of the regulations.

The Departments have verified the data submitted on application form ITA-334P by producers in the territories and inspected the current operations of all producers in accordance with § 303.5 of the regulations.

The verification established that in calendar year 1991 the Virgin Islands watch assembly firms shipped 1,847,107 watches and watch movements into the customs territory of the United States under Public Law 97-446. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 1991 plus the creditable wages paid by the industry during calendar year 1991 to residents of the territory totalled $4,429,080.

There is only one producer in Guam. Publication of the Guam data, accordingly, would disclose competitively sensitive information.

The calendar year 1992 Virgin Islands and Guam annual allocations set forth below are based on the data verified by the Departments in the Virgin Islands and Guam. The allocations reflect adjustments made in data supplied on the producers' annual application forms (ITA Form–334P) as a result of the Departments' verification; and reallocation of duty-exemptions which have been voluntarily relinquished by some producers pursuant to § 303.6(b)(2) of the regulations.

The duty-exemption allocations for calendar year 1992 in the Virgin Islands are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc	500,000
Hampden Watch Co., Inc	300,000
Progress Watch Co., Inc	350,000
Unitime Industries, Inc	500,000
Tropex, Inc	400,000
Timex V.I., Inc	780,000

The duty-exemption allocation for Guam is as follows:

Name of firm	Annual allocation
Timewise Ltd	800,000

Alan M. Dunn,

Assistant Secretary for Import Administration.

Stella G. Guerra,

Assistant Secretary for Territorial and International Affairs.

[FR Doc. 92–13386 Filed 6–5–92; 8:45 am]

BILLING CODE 3510–DS–M and 4310–93–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privilege; Reza Panjtan Amiri, et al.

In the matter of: Reza Panjtan Amiri, also known as Ray Amiri individually and doing business as Ray Amiri Computer Consultants, 13165 E. Essex Drive, Cerritos, California 90701; and Mohammad Danesh, also known as Don Danesh, 27591 Bocina, Mission Viejo, California 92692, Respondents

Decision and Order on Renewal of Order Temporarily Denying Export Privileges

Procedural Background

On November 12, 1991, I issued an order temporarily denying the export privileges of Reza Panjtan Amiri, also known as Ray Amiri (Amiri), Mohammad Danesh, also known as Don Danesh (Danesh), and Ray Amiri Computer Consultants (RACC) for 180 days.[1] 56 FR 58553 (November 20, 1991). This order was issued pursuant to the provisions of § 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768–99 (1991)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–20 (1991)) (Act.).[2]

On April 20, 1992, The Office of Export Enforcement of this Department (the Department), requested that the order be renewed. Counsel for Amiri has filed opposition to the request for renewal. No timely opposition has been received from Danesh.[3] The order is currently set to expire on May 29, 1992, if not renewed.[4]

Factual Background

1. Original Order

In its original request, the Department stated that, as a result of its ongoing investigation, the Department had reason to believe that, during the period betwen on or about April 1989 and on or about October 31, 1990, Amiri and Danesh, acting through RACC, a company located in Newport Beach, California, exported U.S.-origin electronic test and measurement equipment and oscilloscopes, controlled for reasons of foreign policy, to Iran without the validated export licenses required by the Regulations for such exports.

The Department believed that Amiri and Danesh, acting through RACC, would obtain orders from customers in Iran for U.S.-origin commodities. The commodities would be ordered from U.S. suppliers by RACC on the representation that the goods were intended for use in the United States. Once the good were delivered to RACC, Amiri and Danesh would export the goods to Iran. In certain instances, they would submit license applications to the Department seeking authorization to export the goods from the United States to Iran. Amiri and Danesh would export the goods to Iran without waiting to determine whether the Department would issue a validated export license. On some occasions, no application was filed at all. In order to conceal the fact that no validated license existed that would authorize the exports, Amiri and Danesh would submit Shipper's Export Declarations to the U.S. government stating that the exports were authorized under general licenses G–DEST or GLV. In instances in which they claimed that the export was being made under general license GLV, they would also misdescribe the commodity classification and the true value of the commodity being exported.

The Department stated that its investigation revealed that, on at least eight separate occasions between August 3, 1989 and October 13, 1990, Amiri, Danesh and RACC exported U.S.-origin equipment from the United States to Iran without the required validated export license in the manner described above.

The Department also stated that the investigation gave it reason to believe that Amiri, Danesh and RACC continued to seek to obtain U.S.-origin commodities that they intended to export from the United States.

2. Renewal

The Department continues to believe that the risks posed when the original order was issued remain. Additionally, the Department states that two significant actions have occurred since the original order which further demonstrate the need for the continuation of the order. First, both Amiri and Danesh entered guilty pleas to criminal charges relating to some of the conduct mentioned in the original order.[5] Second, the Department believes

[1] Since the issuance of the original order, the Department has learned that RACC is a sole proprietorship of Ray Amiri, not a separate legal entity. In addition, the Department has learned that Don Danesh is no longr employed by RACC. The caption of this matter has been amended to reflect these changes.

[2] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–06 (1991)).

[3] On May 26, 1992, I received a handwritten opposition from Danesh in which he claims that he was a mere employee of RACC, that all of his actions were directed by Amiri, that he had no involvement with Amiri's clients, and that he has ceased all connection with RACC and Amiri. While I cannot consider Danesh's claims at this point, I direct that the Office of Export Enforcement review his pleading, conduct whatever inquiry it deems necessary, and submit to me that office's assessment of the pleading and Danesh's continued risk of committing a violation through counsel by July 1, 1992. A copy should be served on Danesh.

[4] On May 8, 1992, I issued a short extension of the order based upon the agreement of the parties. 57 FR 21057 (May 18, 1992).

[5] On March 30, 1992, each entered pleas of guilty to selected counts of an indictment returned in the U.S. District Court for the Central District of California. Amiri pled guilty to five counts each alleging a violation of 18 U.S.C. 1001, false statements to U.S. government agencies. Danesh pled guilty to a total of four counts. Two counts alleged violations of 50 U.S.C. app., 2410(b), one a conspiracy to violate the EAA and the other was a substantive count of illegal exportation to Iran

Continued

that Amiri has violated the temporary denial order by continuing to engage in export related activities.

In opposing the renewal of the temporary denial order, Amiri argues that he has reorganized his business activities to prevent future violations and that the Department is drawing incorrect conclusions about the meaning of his plea of guilty and his role in the crimes. Further, Amiri denies that he has violated the order and argues that any export business he has entered was authorized by the Department.[6]

Discussion

The Department continues to make a sufficient showing that Amiri, Danesh, and RACC are likely to commit imminent violations of the Regulations and that the temporary denial order is necessary. The guilty please add significant weight to the Department's showing.

Respondent Amiri's opposition papers (hereinafter "respondent's papers") argue that the Department has mischaracterized his March 30, 1992 plea. According to the Department's petition:

> [t]he investigation and subsequent pleas entered in the criminal case establish that Amiri, Danesh and RACC deliberately sought to circumvent U.S. foreign policy controls in regard to these exports. Amiri, Danesh and RACC knew that the exports they made were subject to the Act and Regulations * * *

Department's Request for Renewal at 4. Respondent Amiri (hereinafter "respondent") argues that the above statements are wholly inaccurate characterizations of his plea. Respondent states that "Respondent did not admit to directly or personally participating in any of the violations charged in the indictments." Respondent's papers at 7. Instead, according to Respondent:

> The conduct to which Respondent pleaded guilty essentially consisted of: (1) Awareness in general of U.S. export license requirements pertaining to commodities such as those in question; (2) awareness of the "high probability" that certain of the items required individual validated export licenses; (3) knowledge that Danesh would sign the relevant export declarations stating that the items were authorized for export; and (4) the deliberate failure to ascertain whether in fact such a license was required for any of the items in question.

In sum, Respondent appears to be suggesting that his guilty plea does not reflect upon his trustworthiness as an exporter because his plea did not admit to an overt act of violating the regulations, but instead the knowledge that the regulations would be violated on his behalf and the deliberate failure to take steps to prevent this violation.

In terms of this request for renewal of the temporary denial order, I find that this is a distinction without a difference. In fact, the Respondent's effort to draw this distinction appears to evidence a misunderstanding of the basis for this denial order. Section 778.19(b)(1) provides that such an order may be renewed upon a showing that it is necessary to prevent an imminent violation of the Act or Regulations. Respondent's paper appears to suggest that the only way an imminent violation can occur is when the particular Respondent takes an overt act to violate the regulations. Under this logic, the Respondent's ignorance of the regulations or, as in this case, an affirmative decision by the Respondent to allow his agents to ignore those regulations, could not pose the risk of an imminent violation. Clearly, such a result would undermine the purpose and intent of § 778.19(b) and the TDOs issued thereunder. As such, even if I accepted in toto the Respondent's characterization of his guilty plea, I conclude that his actions to date suggest that allowing him to export unfettered by the proposed order would pose the risk of an imminent violation of the regulations.

In addition to arguing semantics, the Respondent's opposition papers contend that his appointment of Ulysses International (UI) to manage business operations has resulted in "as ironclad a compliance program in place as possible." Respondent's papers at 8. However, it is important to note that Respondent also alleges that his prior difficulties arose not from any personal act but rather from his reliance upon Danesh to address export licensing matters. Now, the Respondent is again relying on others to meet his legal responsibilities. While Respondent's reliance on UI may prove justified, respondent's past record raises doubts as to this "ironclad" compliance program.[7]

Finally, both the Department and Respondent have addressed the issue of whether or not the respondent has violated the terms of the original order. I find that the resolution of this issue is not necessary for purposes of this request to renew the TDO. For purposes of this decision, I will assume that the Respondent has not violated the terms of the original order.[8]

In closing, I would note that my decision to renew this order does not reflect any decision on my part that the Respondent should be permanently barred from reclaiming his export privileges. Rather, it is based on my determination that, at this time, evidence exists to suggest the likelihood of an imminent violation of the Act or the Regulations by the respondent. Any further request for a renewal of the order called for in the Department's papers will require a fresh review of the impact the Respondent's guilty plea will have on his ability to meet the requirements of the law at that time.

Findings

Based on the files of this matter, I find that an order temporarily denying the export privileges of Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants; and Mohammad Danesh, also known as Don Danesh; is necessary to be continued in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with Amiri, Danesh and RACC in goods and technical data subject to the Act and the Regulations, in order to reduce the substantial likelihood that Amiri, Danesh and RACC will continue to engage in activities that are in violation of the Act and the Regulations.

Order

It is hereby Ordered:

I. All outstanding individual validated licenses in which Amiri, Danesh and RACC appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for

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without the required export authorization. The other two counts were a violation of 50 U.S.C. 1701, illegal exportation to Iran in violation of the International Emergency Economic Powers Act (the penalty provisions is in § 1705), and a violatin of 18 U.S.C. 1001, a false statement to U.S. government agencies.

[6] On December 10, 1991, the Director, Office of Export Licensing, authorized Ulysses, International, a California corporation, to export commodities qualifying for general licenses G-DEST or GTDA "on behalf of Amiri" subject to certain conditions.

[7] Respondent's paper argues that, while his guilty plea evidences an acceptance of full responsibility for his past conduct, it does not show a predisposition to violate the Act or Regulations in the future. Respondent's papers at 5, ftn. 11. Such a finding of predisposition is not required for an extension of this order. Rather, respondent's admission that he deliberately failed to prevent violations done on his behalf appears to reflect a predisposition to allow such violations in the future.

[8] Amiri has not exception to the order which would permit him to engage in export transactions. The Department's allegations here are insufficient to establish that Amiri has violated the denial order. The Department should determine where the truth lies. If Amiri has violated the order, appropriate action should be taken. If he has not, the Department should review the exception granted to Ulysses International

cancellation. Further, all of Amiri's, Danesh's and RACC's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of 180 days from May 30, 1992, Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants, 13165, E. Essex Drive, Cerritos, California 90701, and Mohammad Danesh, also known as Don Danesh, 27591 Bocina, Mission Viejo, California 92692, and all their successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 788.3(c), any person, firm, corporation, or business organization related to Amiri, Danesh and/or RACC by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided by § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations; if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce, room H-6716, 14th Street and Constitution Avenue NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective on May 30, 1992, and shall remain in effect for 180 days.

VII. In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew of this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served on each respondent and this order shall be published in the **Federal Register**.

Dated: May 29, 1992.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 92-13297 Filed 6-5-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with §§ 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("The Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than June 30, 1992, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

Antidumping duty proceedings	Period
BELGIUM: Sugar (A-423-077)	06/01/91 to 05/31/92
CANADA: Oil Country Tubular Goods (A-122-506)	06/01/91 to 05/31/92
CANADA: Red Raspberries (A-122-401)	06/01/91 to 05/31/92
FRANCE: Large Power Transformers (A-427-030)	06/01/91 to 05/31/92
FRANCE: Sugar (A-427-078)	06/01/91 to 05/31/92
ITALY: Large Power Transformers (A-475-031)	06/01/91 to 05/31/92
ITALY: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-475-802)	06/01/91 to 05/31/92
JAPAN: Nitrile Rubber (A-588-706)	06/01/91 to 05/31/92
JAPAN: Fishnetting of Man-Made Fibers (A-588-029)	06/01/91 to 05/31/92
JAPAN: Forklift Trucks (A-588-703)	06/01/91 to 05/31/92
JAPAN: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-588-807)	06/01/91 to 05/31/92
JAPAN: Large Power Transformers (A-588-032)	06/01/91 to 05/31/92

Antidumping duty proceedings	Period
JAPAN: 64K DRAMS (A-588-503)	06/01/91 to 05/31/92
JAPAN: Pet Film (A-588-814)	11/30/90 to 05/31/92
ROMANIA: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished (A-485-602)	06/01/91 to 05/31/92
SINGAPORE: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-559-802)	06/01/91 to 05/31/92
SWEDEN: Stainless Steel Plate (A-401-040)	06/01/91 to 05/31/92
TAIWAN: Carbon Steel Plate (A-583-080)	06/01/91 to 05/31/92
TAIWAN: Fireplace Mesh Panels (A-583-003)	06/01/91 to 05/31/92
TAIWAN: Oil Country Tubular Goods (A-583-505)	06/01/91 to 05/31/92
THE HUNGARIAN PEOPLE'S REPUBLIC: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (A-437-601)	06/01/91 to 05/31/92
THE FEDERAL REPUBLIC OF GERMANY: Barium Carbonate (A-428-061)	06/01/91 to 05/31/92
THE FEDERAL REPUBLIC OF GERMANY: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-428-802)	06/01/91 to 05/31/92
THE FEDERAL REPUBLIC OF GERMANY: Sugar (A-428-082)	06/01/91 to 05/31/92
THE PEOPLE'S REPUBLIC OF CHINA: Sparklers (A-570-804)	12/17/90 to 05/31/92
THE PEOPLE'S REPUBLIC OF CHINA: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished (A-570-601)	06/01/91 to 05/31/92
THE PEOPLE'S REPUBLIC OF CHINA: Silicon Metal (A-570-806)	02/05/91 to 05/31/92
THE REPUBLIC OF KOREA: Pet Film (A-580-807)	11/30/90 to 05/31/92

In accordance with § 353.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with §§ 353.31 or 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by June 30, 1992.

If the Department does not receive, by June 30, 1992, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: June 1, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-13388 Filed 6-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-502]

Certain Iron Construction Castings From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On February 27, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from the People's Republic of China (PRC). This review covers all PRC manufacturers/exporters for the period May 1, 1990 through April 30, 1991. The review indicates the existence of dumping margins during the period.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of comments received, we have changed the final results from those in the preliminary results of review.

EFFECTIVE DATE: June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Marchal or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 6709) the preliminary results of its administrative review of the antidumping order on certain iron construction castings from the People's Republic of China (PRC) (51 FR 17222, May 9, 1986). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 353.22 (1991).

Scope of the Review

Imports covered by this review are shipments of certain iron construction castings, limited to: manhole covers, rings and frames; catch basin grates and frames; cleanout covers and frames used for drainage or access purposes for public utility, water, and sanitary systems; and valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable. Certain iron construction castings are currently classifiable under numbers 7352.10.00.00 and 7325.10.00.50 of the Harmonized Tariff Schedule (HS). Although the HS numbers are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

The review covers all PRC manufacturers and exporters of the subject merchandise and the period May 1, 1990 through April 30, 1991.

Use of Best Information Available

Questionnaires were forwarded to nine PRC manufacturers/exporters of the subject merchandise. Two companies reported that they had no shipments during the period. Seven companies, including the Guangdong Branch of China National Metals and Minerals Import and Export Corporation (Minmetals Guangdong), failed to respond to our questionnaire. The Department has therefore decided to use

the best information available (BIA) in determining the rate for all companies.

When a company fails to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department considers the company uncooperative and generally assigns to that company the higher of: (a) The highest rate assigned to any company in a previous review or the investigation or (b) the highest rate for a responding company with shipments during the review period. See 19 CFR 353.37(b) and Final Results of Antidumping Duty Administrative Reviews: Portable Electric Typewriters From Japan (November 4, 1991, 56 FR 56393).

For BIA, we have used the rate of 92.74 percent, the rate calculated for Minmetals Guangdong in the final results of the 1989–90 administrative review. See Final Results of Antidumping Duty Administrative Review: Certain Iron Construction Castings From the People's Republic of China (57 FR 10644, March 27, 1992) (1989–90 Castings Final).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.22(c) of the Commerce regulations. We received comments from one importer of the subject merchandise, Overseas Trade Corporation (Overseas Trade), and from the petitioners, the Municipal Castings Fair Trade Council and its individually-named members—Alhambra Foundry, Inc. Allegheny Foundry Co., Bingham and Taylor Division, Virginia Industries, Inc., Campbell Foundry Co., Charlotte Pipe and Foundry Co., Deeter Foundry Co., East Jordan Iron Works, Inc., LeBaron Foundry Inc., Municipal Castings, Inc., Neenah Foundry Co., Opelika Foundry Co., Pinkerton Foundry, Inc., Tyler Pipe Industries Inc., U.S. Foundry and Manufacturing Co., and Vulcan Foundry, Inc. Although comments were also submitted by two other importers, because they were untimely we did not consider them, and we returned them in accordance with 19 CFR 353.38(a)

Comment 1: Petitioners state that the Department correctly determined in its preliminary results that, because the PRC is a state-controlled economy and because there has been no evidence presented to the contrary regarding the legal, financial, or economic independence of the respondents during the period of review, a single country-wide rate is appropriate for this review. Petitioners assert that the Department should not change this determination for the final results of this review.

Department's Position: We disagree. In our preliminary results we stated that we were following the final results of review for the most recent period in determining that a single country-wide rate was appropriate. At the time of our preliminary results, the most recent period for which final results had been published was the 1988–89 period. On March 27, 1992, the final results of review of a more recent period, the 1989–90 period, were published. In those final results we determined that Minmetals Guangdong was entitled to a separate rate because Minmetals Guangdong had met the criteria set out in Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991). See 1989–90 Castings Final. We have determined that once a Chinese company has demonstrated that it is entitled to a separate rate, unless there is an indication that its status may have changed, it is not necessary for that company to resubmit data supporting a separate rate during subsequent reviews. No information has been submitted on the record for this review indicating any change in Minmetals Guangdong's status. Therefore, we determine that Minmetals Guangdong is entitled to a separate rate for these final results.

Comment 2: Petitioners state that, because seven of the nine firms that received the Department's questionnaire did not respond, the Department should use BIA for the final results, as it did in the preliminary results. Petitioners assert that, in conformity with Department practice, the Department should apply a BIA rate that is least favorable to respondents because of the deliberate failure of these firms to respond. In support of their claim for a BIA least favorable to respondents, petitioners cite *Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185 (Fed. Cir. 1990). Petitioners specifically propose applying a BIA rate of 92.74 percent, the rate from the 1989–90 review period. See 1989–90 Castings Final.

Department's Position: We agree that, for these final results, the appropriate BIA is 92.74 percent, the rate calculated for Minmetals Guangdong in the 1989–90 administrative review. See 1989–90 Castings Final. The fact that two respondents replied that they had no shipments during the period of review is irrelevant for these final results because neither of these companies has demonstrated an absence of government control; therefore, they are not entitled to separate rates.

Comment 3: Overseas Trade claims that, because it purchased the subject merchandise from the Liaoning Branch of China National Machinery Import and Export Corporation (Liaoning Machimpex), an allegedly independent company for which they claim no review was requested or is being in accordance with 19 CFR 353.22(e) at the deposit rate of 11.66 percent. Overseas Trade states that, while the Department may apply a country-wide rate for the companies reviewed, there is no basis in the law or the Department's regulations to apply such a rate to non-reviewed companies.

Petitioners claim that their May 31, 1991 request for review specifically asked that the Department include China National Machinery Import and Export Corporation (Machimpex) within the review. Petitioners claim that they did not limit their request to certain branches of this corporation. Petitioners cite as evidence supporting their claim the fact that the Department sent a questionnaire to Machimpex, and that counsel for Liaoning Machimpex advised the Department that Liaoning Machimpex would not be able to respond to the Department's questionnaire issued in this review.

Petitioners also state that, in its preliminary results, the Department noted its determination that a single country-wide rate is appropriate for this review because the PRC is a state-controlled economy and that there has been no evidence presented to the contrary regarding legal, financial, or economic independence during the review. Petitioners further assert that because Liaoning Machimpex has submitted no information demonstrating its independence from the central government, it is assumed to be controlled by the central government, and therefore should be assessed the same dumping margins as all other government-controlled entities. Accordingly, petitioners argue that the Department correctly determined to apply the all-other rate to entries from Liaoning Machimpex during the review period.

Department's Position: We agree with petitioners that the BIA rate for this review period is applicable to Liaoning Machimpex. Machimpex, and all its branches, are included in this review. In publishing initiations of administrative review, the Department does no list every branch company. Neither the statute nor the Department's regulations require it to include the name of every company subject to review in its initiation notices. See 19 CFR 353.22(c). Such a policy could prove overly burdensome to administer, especially with respect to Chinese companies, which have in the past been subject to unpredictable changes in structure.

organization, and location. During past reviews in this case, in fact, the Department has been unable consistently to determine the names of all the companies exporting castings to the United States. See, e.g., Iron Construction Castings From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review, (55 FR 22939, June 5, 1990). In any event, because this is a non-market economy case, all companies are covered by the review unless specifically excluded (see discussion of "separate rates" above).

While we attempt to include the names of headquarters companies, our failure to list Machimpex in the June 18, 1991 initiation notice (56 FR 27943) was an oversight. This omission constituted harmless error, however. See 1989–90 Castings Final, Department's Position in response to Comment 5. The company had notice that its exports were subject to review under the antidumping duty order. Petitioners specifically requested that Machimpex be included within this review. Therefore, Overseas Trade is incorrect in claiming that any portion of Machimpex's exports should be liquidated at the deposit rate. See 19 CFR 353.22(e).

Furthermore, we sent Machimpex a questionnaire without designating a particular branch. On October 16, 1991, we received a letter of appearance for this review from the counsel to Liaoning Machimpex, and on October 25, 1991, Liaoning Machimpex notified the Department's questionnarie issued in this administrative review.

We also agree with petitioners that Liaoning Machimpex has not presented any evidence, during this review or any previous review, of legal, financial, or economic independence from the state-controlled economy of the PRC. The BIA rate of 92.74 percent, therefore, applies to all exports of the subject merchandise by Liaoning Machimpex during the period of review.

Final Results of the Review

As a result of comments received, we have revised our preliminary results, and we determine the margins to be:

Manufacturer/exporter	Period	Margin (percent)
Guangdong Minmetals	5/1/90 to 4/30/91	92.74
All Others	5/1/90 to 4/30/91	92.74

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain iron construction castings from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies and any other company without a company-specific rate will be as listed above; (2) For previously reviewed or investigated companies with company-specific rates not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established or the most recent period for the manufacturer of the merchandise; (4) The cash deposit rate for all other manufacturers or exporters will be 92.74 percent. This rate represents the highest rate for any firm with shipments in this administrative review.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the nest administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occured and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1991).

Dated: June 2, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–13389 Filed 6–5–92; 8:45 am]

BILLING CODE 3510–DS–M

[C–201–003]

Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On February 19, 1992, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (57 FR 5997). We have now completed that review and determine the total bounty or grant to be zero or *de minimis* for fifty-seven companies and 1.74 percent *ad valorem* for all other companies for the period January 1, 1990 through December 31, 1990.

EFFECTIVE DATE: June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 5997) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20012; May 10, 1982). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of Mexico ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under the Harmonized Tariff Schedule (HTS) item numbers 6907.10.0000, 6907.90.0000, 6908.10.0000 and 6908.90.0000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period from January 1, 1990 through December 31, 1990, fifty-eight companies, and the following programs: (1) FOMEX; (2) BANCOMEXT Financing for Exporters;

(3) FOGAIN; (4) PITEX; (5) other BANCOMEXT preferential financing; (6) CEPROFI; (7) import duty reductions and exemptions; (8) state tax incentives; (9) NAFINSA FONEI-type financing; and (10) NAFINSA Fogain-type financing.

Calculation Methodology for Assessment and Deposit Purposes

In calculating the benefits received during the review period, we followed the methodology described in the preamble to 19 CFR 355.20(d) (53 FR 52306, 52325–52326; December 27, 1988). First, we calculated a country-wide rate, weight-averaging the benefits received by the fifty-eight companies subject to review to determine the overall subsidy from all countervailable programs benefitting exports of subject merchandise to the United States. Because the country-wide rate was above *de minimis*, as defined by 19 CFR 355.7, we proceeded to the next step in our analysis and examined the *ad valorem* rate we had calculated for each company for all countervailable programs, to determine whether individual company rates differed significantly from the weighted-average country-wide rate. Fifty-seven companies received aggregate benefits which were zero or *de minimis* (significantly different within the meaning of 19 CFR 355.22(d) (3) (ii)). Therefore, these companies must be treated separately for assessment and cash deposit purposes.

Ceramica Regiomontana's (Ceramica) rate was not significantly different from the weighted-average country-wide rate. Since ceramica was the only company receiving greater than *de minimis* benefits, the all-other rate is based on the unweighted aggregate benefits that Ceramica received from all countervailable programs.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from one respondent, Ceramica.

Comment 1: Ceramica contends that the Department does not have the legal authority to impose countervailing duties on ceramic tile from Mexico and must revoke the countervailing duty order. Effective April 23, 1985, the date of the "Understanding Between the United States and Mexico Regarding Subsidies and Countervailing Duties" (the Understanding), Mexico became a "country under the Agreement". Therefore, Ceramica argues that 19 U.S.C. 1671 requires an affirmative injury determination as a prerequisite to the imposition of countervailing duties on any Mexican merchandise imported on or after April 23, 1985, regardless of whether the countervailing duty order was published before or after that date.

Ceramica further contends that the Department's failure to revoke this order is inconsistent with past practice. In two previous countervailing duty administrative reviews, Certain Fasteners From India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod From Trinidad and Tobago; Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (50 FR 19561; May 9, 1985), where an outstanding countervailing duty order was issued pursuant to 19 U.S.C. 1303(a) without benefit of an ITC injury determination, the Department determined that it did not have the authority to impose countervailing duties when events subsequent to the issuance of the order required an affirmative ITC injury determination prior to imposition of countervailing duties. Since the ITC has indicated that it does not have the legal authority to conduct an injury investigation concerning merchandise already subject to a countervailing duty order, the Department has in the past concluded that it could not impose countervailing duties and revoked, or preliminary determined to revoke, the order effective the date the affirmative injury determination became a requirement. Therefore, the Department should revoke the countervailing duty order on ceramic tile and refund all deposits of estimated countervailing duties by Ceramica during the 1990 review period.

Department's Position: We fully addressed this issue in a previous administrative review of this countervailing duty order. See Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review (55 FR 50744; December 10, 1990). Ceramica has provided neither new evidence nor new arguments that convince us to reconsider our position on this issue.

Comment 2: Ceramica contests the Department's determination that the BANCOMEXT and FOMEX loans taken out by the company were countervailable. The respondent contends that the use of a commercial rate as a benchmark in the Department's calculation is inconsistent with Item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (GATT). Item (k) of the Illustrative List defines an export subsidy as the granting of export credits by governments at interest rates below the cost of funds to the government. BANCOMEXT and FOMEX financing meets the cost to the government standard and therefore does not provide countervailable subsidies.

Department's Position: We disagree. The cost to government standard which defines an export subsidy in Item (k) of the Illustrative List does not limit the United States in applying its own national countervailing duty law to determine the countervailability of benefits bestowed on merchandise exported from Mexico. Certain Textile Mill Products From Mexico; Final Results of Countervailability Duty Order Administrative Review (54 FR 36841, 36843–36844; September 5, 1989) and Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review (56 FR 12175, 12177; March 22, 1991). Because BANCOMEXT and FOMEX loans are limited to exporters, we determine this program is countervailable. Cermica Tile From Mexico; Preliminary Results of Countervailing Duty Review (57 FR 5997; February 19, 1992). When we compared our benchmark with the interest rates reported under the BANCOMEXT and FOMEX financing, we found countervailable benefits.

Comment 3: Ceramica argues that the Department incorrectly treated the benefit from the PITEX program as a grant and thus overstated the company's net benefits. Ceramica claims that after five years the company will have to pay the import duties on all equipment and consumables imported under the PITEX bond. Therefore, the benefit is the deferred payment of import duties and should be treated as an interest-free loan instead of an outright grant.

Department's Position: We disagree. We believe it is more appropriate to treat the Mexican Government's forgiveness of import duties under PITEX as grants, rather than as interest-free loans. PITEX provides qualified exporters with import duty exemptions at the time the machinery is imported for the production of merchandise destined for export, rather than as a deferral contingent on certain export requirements. Under PITEX, the exporters anticipate re-export of the merchandise. As long as the machinery is reexported after five years, PITEX does not require the exporter to reimburse the Mexican Government for any import duties exempted at the time of import. See Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative

Review (56 FR 50858, 50859; October 9, 1991).

If the exporter chooses to keep the machinery as a permanent import, it appears that any reimbursement made to the Mexican Government of import duties previously exempted would not be significant because: (1) Duties are calculated based on the depreciated value of the machinery at the time of conversion; (2) exporters can renew the five-year temporary period and retain the machinery up to ten years prior to converting it to permanent import; and, (3) duties are calculated at the duty rate in effect at the time of conversion, not at the time of import. We note that duty rates in Mexico have been decreasing steadily over the last six years, further reducing any duty liabilities under PITEX. Under these circumstances, there is a strong likelihood that the duties due at the time of conversion would be zero. *Id.* For these reasons, duty exemptions under PITEX are properly treated as grants and we expensed them in full at the time of importation, when the exporters otherwise would have paid duties on the imported machinery. *Id.*; Final Negative Countervailing Duty Determination; Silicon Metal From Brazil (56 FR 26988; June 12, 1991). See also Notice of Proposed Rulemaking and Request for Public Comments § 355.48(b)(6) (54 FR 23366, 23384; May 31, 1989).

Final Results of Review

After reviewing all of the comments received, we determine the total bounty or grant to be zero or *de minimis* for fifty-seven companies and 1.74 percent *ad valorem* for all other companies for the period January 1, 1990 through December 31, 1990.

The following 57 companies received zero or *de minimis* benefits during the period of review:

(1) Agustin Cedillo Ruiz
(2) Alejandro Estrada
(3) Antonio Avila
(4) Apolonio Arias
(5) Aurelio Cedillo Ruiz
(6) Azulejos Orion
(7) Barros Tlaquepaque
(8) Casimiro Chávez
(9) Eduardo Garcia de la Pena
(10) Emilio Pacheco
(11) Faustino Nuncio
(12) Fernando Espinoza Sanchez
(13) Francisco Gomez
(14) Francisco Rincon
(15) Gergorio Bustos
(16) Guadalupe Avila
(17) Industrias Intercontinental
(18) Inocencio Leija
(19) J. Garza Arocha
(20) Jesus Flores
(21) Jesus Gallegos Olivares
(22) Jesus Hernandez Tovar
(23) Jesus Jimenez
(24) Jose Antonio Mata
(25) Jose Arellano Valdez
(26) Jose Dolores Hernandez
(27) Jose Refugio Silva
(28) Jose Silva Romero
(29) Juan Cortez Coronel
(30) Juan Rodriguez Rocha
(31) Julio Coronado
(32) Julio Jimenez
(33) Julio Ulloa Rodriguez
(34) Ladrillera La Luz
(35) Ladrillera Monterrey
(36) Leoncio Sanchez
(37) Leopoldo Montiel Rincon
(38) Materiales Rodriguez
(39) Matias Barajas
(40) Matias Reyes
(41) Norberto Cuellar
(42) Pedro Aguilar
(43) Pedro Hernandez
(44) Pedro Lopez Alonso
(45) Pisos Coloniales de Mexico
(46) Ramon Medina
(47) Ramon Torres Avila
(48) Raul Leija
(49) Reynol Martinez Chapa
(50) Ricardo Padilla
(51) Roberto Elizondo
(52) Ruben Cuellar
(53) Sotero Jalomo Reyna
(54) Teofilo Covarrubias
(55) Tranquilino Flores
(56) Vicente Jalomo Reyna
(57) Zenon Cortez Coronel

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the 57 companies listed above and to assess countervailing duties of 1.74 percent of the f.o.b. invoice price on shipments of this merchandise from all other companies exported on or after January 1, 1990 and on or before December 31, 1990.

The Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Act, on shipments of this merchandise from the 57 companies listed above and to collect a cash deposit of estimated countervailing duties of 1.61 percent of the f.o.b. invoice price on shipments from all other companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The decrease in the cash deposit rate for all other companies is due to the termination of the FOMEX program. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: June 2, 1992

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-13390 Filed 6-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-421-601]

Standard Chrysanthemums From the Netherlands; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands for the period January 1, 1990 through December 31, 1990 (57 FR 9539). We have now completed that review and determine the net subsidy to be 0.37 percent *ad valorem*.

EFFECTIVE DATE: June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 9539) the preliminary results of its administrative review of the countervailing duty order on standard chrysanthemums from the Netherlands (52 FR 7846; March 12, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of Dutch standard chrysanthemums. During the review period, such merchandise was classifiable under item number 0603.10.7020 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990, and nine programs.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received a written comment from the respondents.

Comment: Vereniging Van Bloemenveilingen in Nederland and the Bedrijfschap voor de Groothandel in Bloemkwekeriproduckten, state that the Department incorrectly calculated the benefit from the Glasshouse Enterprise Program. They allege that the Department included in its calculations both the gross disbursed grant amounts and the net grant amounts after adjustment for partial returns of grants previously disbursed. They also contend that the Department should only use the net grant amounts to calculate the benefit from this program.

Department's Position: We reviewed our calculations and confirmed that we had used both the gross disbursed grant amounts and the net grant amounts to calculate the benefit from the Glasshouse Enterprise Program. In the preliminary results, we calculated the net grants amounts based on data in a prior review period. After re-examination of our calculation, we determined that it is appropriate to use the gross disbursed grant amounts as submitted in the questionnaire response since we were not provided in this period of review with the information necessary to derive the net grant amounts, such as partial returns of grants previously disbursed. Therefore, we have adjusted our calculations accordingly. On this basis, we determine the benefit from this program to be 0.32 percent *ad valorem*.

Final Results of Review

As a result of our review, we determine the total net subsidy to be 0.37 percent *ad valorem* for all exports of the subject merchandise during the period January 1, 1990 through December 31, 1990. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the Netherlands exported on or after January 1, 1990 and on or before December 31, 1990. The Department will also instruct the Customs Service to waive the collection of cash deposits of estimated countervailing duties on all shipments of the subject merchandise from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 29, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-13391 Filed 6-5-92; 8:45 am]

BILLING CODE 3510-DB-M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, DOC.

ACTION: Issuance of emergency permit; Fish Passage Center, (P500).

On May 12, 1992, notice was published in the **Federal Register** (57 FR 20246) that an application had been filed by the Fish Passage Center, 2501 SW. First Ave., suite 230, Portland, OR 97201-4752, to take Snake River Sockeye salmon (*Oncorhynchus nerka*) and Snake River spring/summer and fall chinook salmon (*O. tshawytscha*) for the purposes of scientific research and enhancement.

Notice is hereby given that on May 29, 1992, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued an emergency Permit for the above taking subject to certain conditions set forth therein.

Issuance of this emergency Permit as required by the Endangered Species Act of 1973 was based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This emergency Permit was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits. This emergency Permit will be valid only until July 31, 1992, or until supeseded by a decision on the application, whichever comes first.

The application, Permit and supporting documentation are available for review by interested persons in the following offices by appointment:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 7324, Silver Spring, MD 20910 (301/713-2289);

Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE. BIN C15700—Building 1, Seattle, WA 98115-0070 (206/526-6150); and

Environmental and Technical Services Division, National Marine Fisheries Service 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230-5400).

Dated: May 29, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-13263 Filed 6-5-92; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, DOC.

ACTION: Issuance of emergency permit; U.S. Army Corps of Engineers (Corps), (P504).

On May 12, 1992, notice was published in the **Federal Register** (57 FR 20247) that an application had been filed by the U.S. Army Corps of Engineers (Corps), Walla Walla District, Walla Walla, WA 99362-9265, to take Snake River Sockeye salmon (*Oncorhynchus nerka*) and Snake River spring/summer and fall chinook salmon (*O. tshawytscha*) for the purposes of scientific research and enhancement.

Notice is hereby given that on May 29, 1992, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued an emergency Permit for the above taking subject to certain conditions set forth therein.

Issuance of this emergency Permit as required by the Endangered Species Act of 1973 was based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This emergency Permit was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits. This emergency Permit will be valid only until July 31, 1992, or until superseded by a decision on the application, whichever comes first.

The application, Permit and supporting documentation are available for review by interested persons in the following offices by appointment:

Permit Division, Office of Protected Resources, National Marine Fisheries

Service, 1335 East-West Highway, suite 7324, Silver Spring, MD 20910 (301/713–2289);

Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE. BIN C15700—Building 1, Seattle, WA 98115–0070 (206/526–6150); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: May 29, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–13264 Filed 6–5–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of public display permit no. 784.

SUMMARY: On Friday, March 27, 1992, notice was published in the **Federal Register** (57 FR 10650) that an application (P508) had been filed by Zoo Parquesam, Parques de Fuengirola, Camino Jose Cela, Malaga, Spain 29640. A public display permit was requested to obtain the care and custody of two (2) male California sea lions (*Zalophus californianus*) from captive stock, currently in the custody of the Marine Mammal Center, Sausalito, CA.

Notice is hereby given that on May 29, 1992, as authorized by the provisions of the Marine Mammal Protection Act, the National Marine Fisheries Service issued a permit for the above activities subject to the special conditions set forth therein.

The permit is available for review by appointment by interested persons in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1335 East-West Highway, room 7330, SSMC1, Silver Spring, MD 20910, (301) 713–2289; and

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, (310) 980–4001.

Dated: May 29, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources.

[FR Doc. 92–13265 Filed 6–5–92; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

June 2, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 9, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6494. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 347/348 is being increased for special shift and swing, reducing the limits for Categories 314 and 647/648 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 1905, published on January 16, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 2, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 13, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on June 9, 1992, you are directed to amend the directive dated January 13, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and India:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
314	4,894,447 square meters.
347/348	448,586 dozen.
647/648	538,231 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–13316 Filed 6–5–92; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Rule Amendment Relating to Records for Orders and Personal Transactions During Regular Trading Hours

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendment.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has submitted a proposed rule amendment to the Commodity Futures Trading Commission for review. The purpose of the rule amendment is to exempt certain institutional users of the market from the requirement that all customer orders include the customer's account designation at the time of execution

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Trading and Markets with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rule amendment is in the public interested and will assist the

Commission in considering the views of interested persons Accordingly, the Division, on behalf of the Commission, is publishing the proposed rule amendment for public comment.

DATES: Comments must be received on or before July 8, 1992.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letters dated February 24, 1992 and May 7, 1992, the CME submitted a proposed amendment to Exchange Rule 536 under section 5a(12) of the Commodity Exchange Act ("Act") [1] Currently under exchange rule 536, every order received from a customer must be in writing at the time of execution and must include the customer's account designation. The Exchange has represented that orders entered on behalf of highly capitalized and sophisticated entities may be adversely affected by the rule. Specifically, the Exchange states that account managers that manage more than one account and use futures as part of an overall strategy to hedge securities portfolios have expressed concern that the rule is inconsistent with the manner in which futures are used to hedge securities portfolios, the goal of treating all accounts fairly, and the requirements in the securities markets which permit an account advisor to transmit orders throughout the day and communicate the account designation at the end of the day. The CME represents that the proposed rule amendment is intended to address these issues.

The proposed CME rule amendment exempts certain orders from the customer account designation requirement at the time of execution, provided specified conditions are met. Eligible orders would include orders entered by Investment Advisors registered with the Securities and Exchange Commission pursuant to the Investment Advisors Act of 1940, banks, insurance companies, trust companies and savings and loan associations subject to federal or state regulation. Additionally, such orders that did not include the account designation prior to execution could only be allocated to certain specified sophisticated institutional accounts.

Acting pursuant to the authority delegated pursuant to Commission Regulation 140.96, the Director of the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rule amendment is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rule amendment for public comment. The Commission requests comments on any aspects of the proposed rule amendment that members of the public believe may raise issues under the Act or Commission regulations.

Copies of the CME submissions are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies may also be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314. Some materials may be subject to confidential treatment pursuant to 17 CFR 145.5 or 145.9.

Any person interested is submitting written data, views, or comments on the proposed rule amendment should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC on June 1, 1992.

Alan L Seifert,

Deputy Director, Division of Trading and Markets.

[FR Doc. 92–13310 Filed 6–5–92; 8:45 am]

BILLING CODE 6351–01–M

[1] The CME also submitted, by letter dated February 24, 192, a petition for rulemaking pursuant to Commission Regulation 13.2 to amend Commission Regulation 1.35(a–1).

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DFARS 252.228–7006, Subcontractor Requests for Payment Bonds.

Type of Request: New collection.

Average Burden Hours/Minutes Per Response: 30 minutes.

Responses Per Respondent: 10.

Number of Respondents: 5,000.

Annual Burden Hours: 25,000.

Annual Responses: 50,000.

Needs and Uses: This requirement provides for the collection of information from contractors who are awarded DoD construction contracts which are subject to the Miller Act (40 U.S.C. 270a–270d). The information collection requires these contractors to provide a copy of their payment bond when requested to so so by current or prospective subcontractors/suppliers.

Affected Public: Businesses or other for-profit organizations; small businesses or organizations.

Frequency: On occasion.

Respondents Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposals should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia, 22202–4302.

Dated: June 3, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 92–13320 Filed 6–5–92; 8:45 am]

BILLING CODE 3810–01–M

The Joint Staff; National Defense University Board of Visitors

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATES: The meeting will be held between 0800–1200 and 1330–1530 on 19 June 1992.

ADDRESS: The meeting will be held in the Command Conference Room, Marshall Hall, Building 62, Fort Lesley J. McNair.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Fort Lesley J. McNair, Washington, DC 20319–6000. To reserve space, interested person should phone (202) 287–9418/16.

SUPPLEMENTARY INFORMATION: The agenda will focus on updates of major University elements, progress on accreditation and degree granting, and a

general review of the University during Admiral Baldwin's tenure.

Dated: June 3, 1992

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 92–13318 Filed 6–5–92; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Renewal of the Department of Defense Information School Board of Visitors

ACTION: Notice.

SUMMARY: The Department of Defense Information School (DINFOS) Board of Visitors was renewed for a two-year period, effective May 27, 1992, in consonance with the public interest, in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The DINFOS Board of Visitors provides timely and expert advice to the Secretary of Defense and the Assistant Secretary of Defense for Public Affairs regarding promoting excellence in public affairs training. The Board is an external source of journalistic and communications media expertise which acts as an important bridge between the DINFOS and the media professional communities, and ensures continued reflection on the objectives, operations, and policies of the School.

Continued efforts are made to ensure that the Board has a well-balanced membership comprised of individuals from the journalistic and communications media fields, and from diverse sectors such as, academic institutions, public media research firms, network news companies, and national newspapers/publications.

For further information on the DINFOS Board of Visitors, contact: Mr. Tom Green, Armed Forces Information Service, (703) 274–4897.

Dated: June 3, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–13319 Filed 6–5–92; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency

Membership of the DIA Performance Review Committee

AGENCY: Defense Intelligence Agency (DoD).

ACTION: Notice of membership of the DIA Performance Review Committee (PRC).

SUMMARY: This notice announces the appointment of the PRC of the Defense Intelligence Agency. The PRC's jurisdiction includes the entire Defense Intelligence Senior Executive Service (DISES). Publication of the PRC membership is required by 10 U.S.C. 1601 (a)(4).

The PRC provides fair and impartial review of Defense Intelligence Senior Executive Service (DISES) performance appraisals and makes recommendations regarding performance, performance awards, and as applicable, recertification to the Director, Defense Intelligence Agency.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Curriden, Human Resources Manager, Policy and Program Division, Directorate for Human Resources, Defense Intelligence Agency (RHR–5), 3100 Clarendon Boulevard, Arlington, VA 22201–5322, (703) 284–1341.

PRIMARY MEMBERS: Mr. Dennis M. Nagy, Deputy Director (Chairman); Mr. A. Denis Clift, Chief of Staff; Mr. Michael F. Munson, Director, Intelligence Program Support Group; Mr. Joseph J. Romano, Deputy Director for Foreign Intelligence; Mr. Steven T. Schanzer, Director for Information Systems.

ALTERNATE MEMBERS: Mr. Geoffrey H. Langsam, Director for Collection and Imagery Activities; Mr. John J. Sloan, Director, Policy Issues Staff; Mr. Robert E. Martin, Director, Office for Systems Operations.

Dated: June 3, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–13317 Filed 6–5–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach—Global Power will meet on 13–24 July 1992, at the Naval Command, Control and Ocean Surveillance Center, Research, Development Test and Evaluation Division (NRAD), from 8 a.m. to 5 p.m.

The purpose of this meeting is to gather information for Summer Study Final Report.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–13392 Filed 6–5–92; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995–2020 (Architecture Committee) will meet on 23 June 1992, at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA, 8 a.m. to 5 p.m.

The purpose of this meeting is to discuss status of Summer Study Reports and future activities.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–13393 Filed 6–5–92; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

May 28, 1992

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

Notice of Application Tendered for Filing with the Commission.

a. *Type of Application:* Minor License.

b. *Project No.:* 10881–001.

c. *Date filed:* April 24, 1992.

d. *Applicant:* Daniel Nelson Evans, Jr.

e. *Name of Project:* Whitney Mills.

f. *Location:* On the Lawson's Fork Creek, Spartanburg County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Daniel Nelson Evans, Jr., 212 Range Road, Kings Mountain, NC 28086, (704) 739–9710.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219–2811.

j. *Comment Date:* Within 60 days of the date filed shown in paragraph (c).

k. *Description of Project:* The existing inoperative project would consist of: (1) A 296–foot-long, 25-foot-high masonry and stone dam; (2) a 4-acre reservoir; (3) two buried 60-foot-long penstocks; (4) a powerhouse with an installed capacity of 225-kW; and (5) appurtenant facilities. Applicant proposes to rehabilitate the existing facilities and would reinstall a short transmission line.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13268 Filed 6–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–3–1–000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

June 2, 1992.

Take notice that on May 29, 1992, Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet.

Thirtieth Revised Sheet No. 4

The tariff sheet is proposed to become effective July 1, 1992. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers and to reflect certain transportation costs as purchased gas costs as permitted under the Commission's order issued on February 7, 1992 in Docket No. RP92–87–000 (58 FERC 61,130). Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional sales and transportation customers and affected state regulatory commission.

Any person desiring to be hear or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 or rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Louis D. Cashell,

Secretary.

[FR Doc. 92–13344 Filed 6–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. G–9885–001, et al.]

Chevron U.S.A. Inc. et al.; Applications for Termination or Amendment of Certificates [1]

June 2, 1992.

Take notice that each of the Applicants listed here filed an application under section 7 of the Natural Gas Act for authorization to terminate or amend certificates or to abandon service as described herein, all as more fully describe in the respective applications which are on file with the Commission and open for public inspection.

To be heard or to protest these applications a person must file a petition to intervene or a protest on or before June 16, 1992. A person filing a petition to intervene or a protest must follow the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All petitions to intervene or protests must be filed with the Federal Energy Regulatory Commission, Washington, DC 20426.

The Commission will consider all filed protests in deciding the appropriate action to take but filing a protest does not make protestants parties to a proceeding. A person wanting to be a party to a proceeding or to particiapte as a party in a hearing must file a petition to intervene.

Under the procedure provided for here, unless otherwise advised, the Applicant will not have to appear or be represented at any hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G–9885–001 D March 30, 1992.	Chevron U.S.A. Inc., 1301 McKinney, Houston, TX 77010.	Texas Eastern Transmission Corporation, Southwest Helen Gohlke Field, Victoria County, Texas.	Assigned August 20, 1991 to Valence Operating Company.
CI61–1461–001 D March 11, 1992.	Meridian Oil Production Inc, 2919 Allen Parkway, Suite 900, Houston, TX 77019.	Colorado Interstate Gas Company, Monell, Arch and Higgins Units, Sweetwater County, Wyoming.	Assigned November 25, 1991 to Union Pacific Resources Company.
CI92–29–000 (CI73–232) D March 9, 1992.	BHP Petroleum (Americas) Inc., 5847 San Felipe, Suite 3600, Houston, TX 77057.	Transcontinental Gas Pipeline Corporation, Cook Ranch Field, LaSalle County, Texas.	Assigned April 1, 1991 to Floyd Oil Company and Cheyenne Partners IV, Ltd.
CI92–31–000 (CI73–235) D March 9, 1992.	BHP Petroleum (Americas) Inc	Transcontinental Gas Pipeline Corporation, Stuart City Field, LaSalle County, Texas.	Assigned April 1, 1991 to Floyd Oil Company and Cheyenne Partners IV, Ltd.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 92–13329 Filed 6–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92-3-2-000]

East Tennessee Natural Gas Co.; Rate Filing

June 2, 1992.

Take notice that on May 29, 1992, East Tennessee Natural Gas Company ("East Tennessee"), tendered for filing revisions to the Fifth Revised Sheet No. 6 of First Revised Volume No. 1 of its FERC Tariff, to be effective on July 1, 1992.

East Tennessee Natural Gas Company states that on May 29, 1992, East Tennessee Natural Gas Company's (East Tennessee) upstream supplier, Tennessee Gas Pipeline Company (Tennessee), filed certain revised tariff sheets in Docket No. RP92-182, to adjust recovery of transition costs pursuant to Commission Order Nos. 528 and 528-A and the terms and conditions of its FERC Gas Tariff. The purpose of the instant filing is to revise East Tennessee's tariff in order to track Tennessee's May 29, 1992, filing. East Tennessee states that the instant tariff sheets reflect (i) the allocation of additional fixed take-or-pay charges billed to East Tennessee by Tennessee in the amount of $44,658, (ii) customers payments through June 30, 1992, and (iii) the reduction in carrying charges utilized to compute the future amortization due to a decrease in interest rates, for an overall decrease in the monthly Demand Rate Surcharge.

East Tennessee requests the Commission to waive § 26.2(a)(2) of its FERC Gas Tariff in order to allow the amortization of the new transition costs over the remaining amortization period which began on May 1, 1991. East Tennessee states that an extension of the amortization period is not necessary since the filing results in an overall decrease in monthly Demand Rate Surcharges as well as the fact that the instant filing will have a *de minimis* impact on the monthly surcharge level.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20425, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining appropriate action but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13336 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-4-2-000]

East Tennessee Natural Gas Co.; Rate Filing

June 2, 1992.

Take notice that on May 29, 1992, East Tennessee Natural Gas Company ("East Tennessee"), submitted for filing ten copies each of Twenty Second Revised Nos. 4 and 5 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1992.

East Tennessee states that the purpose of the filing is to implement a Quarterly Gas Rate Adjustment to be effective for the period July 1 through September 30, 1992, pursuant to § 21.1(b) of the General Terms and Conditions of East Tennessee's FERC Gas Tariff.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20425, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining appropriate action but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13345 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-178-000]

Florida Gas Transmission Company; Petition of Florida Gas Transmission Company for Limited Waiver of Tariff Provisions

June 2, 1992.

Take notice that on May 29, 1992, Florida Gas Transmission Company ("FGT"), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. RP92-178-000 a petition requesting authorization for waivers of Federal Energy Regulatory Commission's ("F.E.R.C." or "Commission") policy, Commission regulations, and FGT's F.E.R.C. Gas Tariff to the extent necessary to allow FGT to add a new delivery point to the existing Service Agreement for firm transportation service between FGT and West Florida Natural Gas Co. ("West Florida"), while permitting West Florida to maintain its exising priority in FGT's first-come, first-served queue.

FGT states that good cause exists for granting the requested waivers in that (i) FGT will continue to serve the same end-user, (ii) the new delivery point will be located in the same geographic location as an existing delivery point at which FGT presently serves West Florida, and (iii) the new delivery point will not interfere with FGT's ability to render firm service to FGT's other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1992 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or protest in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedure (18 CFR and 385.211 and 385.214). Protests will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with the Commission's rules.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13332 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-4-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 2, 1992.

Take notice that on May 29, 1992 Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective June 1, 1992:

Twenty-Seventh Revised Sheet No. 8

FGT states that the above-referenced tariff sheet is being filed to reflect an increase in FGT's cost of gas purchased from that level reflected in its last Quarterly PGA filing effective May 1, 1992 in Docket No. TQ92-3-34-000.

On April 30, 1992, FGT made a compliance filing in its Quarterly PGA in Docket Nos. TA92-1-34-000, TA92-1-34-001 and TQ92-3-34-000 containing a projected cost of purchased gas for the period May 1, 1992 through July 31, 1992 of $1.9230/MMBtu saturated. Subsequent to the Quarterly filing, FGT has experienced an increase in its cost of purchased gas to a level that now exceeds the level of purchased gas cost established in FGT's last Quarterly PGA. However, FGT is precluded from adjusting its rates under § 15.10 (Interim Adjustment Filings) of its FERC Gas Tariff to reflect a level of gas cost that exceeds the level established in its last Quarterly PGA filing. Therefore, FGT is making the instant Out-of-Cycle PGA filing in order to reflect the increases in its cost of purchased gas to a level of $2.0374/MMBtu saturated.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13340 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-143-000]

Great Lakes Gas Transmission Limited Partnership; Rescheduling of Informal Settlement Conference

June 2, 1992.

Take notice that at the request of Great Lakes Gas Transmission Limited Partnership (Great Lakes), the informal settlement conference previously scheduled for June 3d and 4th, 1992, has been rescheduled for June 16th and 17th, 1992, at 10 a.m., to permit a greater number of parties to attend. Great Lakes will notify the active parties timely by telephone of this change.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13331 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-5-000]

Midwestern Gas Transmission Co.; Rate Filing

June 2, 1992.

Take notice that on May 29, 1992, Midwestern Gas Transmission Company ("Midwestern"), tendered for filing the Thirty-Fifth Revised Sheet No. 5 to be effective on July 1, 1992.

Midwestern states that the purpose of this filing is to reflect a quarterly PGA rate adjustment to its sales rates for the period July 1, 1992 through September 30, 1992. The current Purchased Gas Cost Adjustments reflected in the enclosed tariff sheet consist of a $.1609 per dekatherm adjustment applicable to the gas component of Midwestern sales' rates, and a $.02 per dekatherm adjustment to the demand component. Midwestern further states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20425, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining appropriate action but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13343 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-11-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

June 2, 1992.

Take notice that on May 29, 1992 Mississippi River Transmission Corporation (MRT) tendered for filing Seventy-Seventh Revised Sheet No. 4, and Thirty-Sixth Revised Sheet No. 4.1 to its FERC Gas Tariff, Second Revised Volume No. 1 to be effective June 1, 1992. MRT states that the purpose of the instant filing is to reflect an out-of-cycle purchase gas cost adjustment (PGA).

MRT states that Seventy-Seventh Revised Sheet No. 4 and Thirty-Sixth Revised Sheet No. 4.1 reflect an increase of 48.57 cents per MMBtu in the commodity cost of purchased gas from PGA rates filed to be effective June 1, 1992, in Docket No. TA92-1-25-000. MRT also states that since the April 1, 1992 filing date, MRT has experienced changes in purchase and transportation costs for its system supply that could not have been reflected in that filing under current Commission regulations.

MRT states that a copy of the filing has been mailed to each of MRT's jurisdictional sales customers and the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to be head or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13342 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-177-000]

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

June 2, 1992.

Take notice that Northern Border Pipeline Company (Northern Border), on May 29, 1992, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Northern Border projects that the proposed changes will increase jurisdictional revenues by $13.0 million during the first year that such changes are in effect.

As a result of the Commission's Order dated July 30, 1990 in Northern Border's previous rate case at Docket No. RP89-33-000, Northern Border was authorized to earn an Operation Phase Rate (OPR) which averaged a return on equity of 12.8 percent over the three (3) year time period ended May 31, 1992. By this filing, Northern Border is proposing to return to an OPR of 14.5% which was the authorized OPR for the first ten months of the rate period in Docket No. RP89-33. For the twelve months ending June 30, 1993, this requested OPR equates to a pre-tax return of 13.31 percent. Northern Border is also proposing to increase the provision in 426.1, Donations, not to exceed $50,000 a year plus the Company's matching of contributions made by the Operator's employees and, to allocate interest expense, used in the calculation of income taxes, on a ratio of debt to total capitalization. Finally, Northern Border requests approval to recover increased expenses resulting from the implementation of FASB 106, "Employers Accounting for Postretirement Benefits Other Than Pension" by the Operator's parent company effective January 1, 1993.

Northern Border proposes an effective date for this filing of July 1, 1992. Copies of this filing have been sent to all of Northern Border's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13335 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-9-59-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 2, 1992.

Take notice that Northern Natural Gas Company, (Northern), on May 29, 1992, tendered for filing changes in its FERC Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

Northern is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PGA filing requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase Cost of $2.2059 per MMBtu to be effective July 1, 1992, through September 30, 1992.

Also the instant filing establishes, when necessary, new Demand rates in compliance with the above referenced PGA rulemaking. Such required Northern to adjust its PGA demand rate components on a quarterly versus annual basis. This filing will establish a new Demand rate component of $7.910 per MMBtu. This rate will be effective July 1, 1992 through September 30, 1992.

Northern states that copies of the filing were served upon Northern's jurisdictional sales customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13339 filed 6-5-92;8:45]

BILLING CODE 6717-01-M

[Docket No. TQ92-8-59-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff June 2, 1992.

Take notice that Northern Natural Gas Company (Northern), on May 29, 1992 tendered for filing changes in its FERC Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

Northern is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PGA filing Requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase Cost of $1.9559 per MMBtu to be effective June 1 through June 30, 1992.

Northern states that copies of the filing were served upon Northern's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13341 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-7-000]

Southern Natural Gas Company; Proposed Changes to FERC Gas Tariff

June 2, 1992.

Take notice that on May 29, 1992, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

One Hundred Eighteenth Revised Sheet No. 4A
Thirty-First Revised Sheet No. 4B
Thirty-Seventh Revised Sheet No. 4]

The proposed tariff sheets and supporting information are being filed with a proposed effective date of July 1, 1992 and reflect approximately the same

commodity cost of purchased gas as contained in Southern's last scheduled PGA filing in Docket No. TA91-1-7-000, and changes in Southern's demand rates for Zones 1, 2, and 3 of ($.069), $.035, and ($.018) per Mcf, respectively, resulting from utilization of the most recent 3-day peak.

Southern states that copies of the filing were served upon Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such petitions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13338 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-181-000]

Tennessee Gas Pipeline Company; Tariff Filing of Changes in Rates

June 2, 1992.

Take notice that on May 29, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing changes in its FERC Gas Tariff to rates for service under Rate Schedule NET-Northeast to be effective July 1, 1992, consisting of the following revised tariff sheet:

Third Revised Volume No. 1
Fourth Revised Fifth Revised Sheet No. 30

Tennessee states that the rate change for Rate Schedule NET-Northeast is necessary to reflect an updated analysis of the costs that will be incurred to render the new service, relying largely on actual experience, rather than the outdated estimated costs on which the rates presently in effect are based. Tennessee states that it also seeks to conform the design of the Rate Schedule NET-Northeast rates to current Commission policy.

Tennessee requests in the alternative, and to the extent appropriate, that the Commission, pursuant to section 7 of the Natural Gas Act, amend the initial rates established by the Commission in its orders certificating the Rate Schedule NET-Northeast facilities and services prior to the date that the associated facilities are placed into service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13333 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-182-000]

Tennessee Gas Pipeline Co.; Rate Change Pursuant to Tariff Adjustment Provisions

June 2, 1992.

Take notice that on May 29, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets to adjust its recovery of transition costs pursuant to Article XXX of the General Terms and Conditions of Volume No. One of its FERC Gas Tariff effective June 1, 1992 and July 1, 1992 respectively:

Third Revised Volume No. 1

Effective June 1, 1992

Eighth Revised Sheet No. 20
Second Revised Sheet No. 20A
Eighth Revised Sheet No. 21
Second Revised Sheet No. 21A
Fourth Revised Sheet No. 24
First Revised Sheet No. 24A
Fifth Revised Sheet No. 25
First Revised Sheet No. 25A
Fifth Revised Sheet No. 26
First Revised Sheet No. 26A
Second Revised Fifth Revised Sheet No. 30

Effective July 1, 1992

Ninth Revised Sheet No. 20
Third Revised Sheet No. 20A
Ninth Revised Sheet No. 21
Third Revised Sheet No. 21A
Fifth Revised Sheet No. 24
Second Revised Sheet No. 24A
Sixth Revised Sheet No. 25
Second Revised Sheet No. 25A
Sixth Revised Sheet No. 26
Second Revised Sheet No. 26A
Third Revised Fifth Revised Sheet No. 30
Fifth Revised Sheet No. 38
Fifth Revised Sheet No. 39
Fifth Revised Sheet No. 40
Fifth Revised Sheet No. 41
Fifth Revised Sheet No. 42

Tennessee states that the purpose of this filing is to adjust Tennessee's transition cost demand and commodity surcharges effective July 1, 1992 to reflect the recovery of an additional $2.2 million of new transition costs, which have been allocated under an equitable sharing formula of 25% absorption-25% demand-50% volumetric resulting in revised demand and volumetric surcharges under Article XXX of its tariff, and to terminate its existing transition cost Volumetric Surcharge effective June 1, 1992 in accord with section 4.7 of Article XXX.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1992, file with the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, DC 20426, a motion to intervene a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 385.211 and 385.214 of the Regulations under the Natural Gas Act 18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13334 Filed 6-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-5-49-000]

Williston Basin Interstate Pipeline Company; Annual Take-or-Pay Reconciliation Filing

June 2, 1992.

Take notice that on May 29, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, tendered for filing its Annual Take-or-Pay Reconciliation Filing pursuant to Sections 32 and 33 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. More specifically, Williston Basin filed the following Primary tariff sheets:

First Revised Volume No. 1

1st Rev 43rd Revised Sheet No. 10
Fourth Revised Sheet No. 122
Second Revised Sheet No. 123I

Original Volume No. 1–A

1st Rev 36th Revised Sheet No. 11
1st Rev 41st Revised Sheet No. 12

Original Volume No. 1–A

1st Rev 31st Revised Sheet No. 10
1st Rev 31st Revised Sheet No. 11

Original Volume No. 2

1st Rev 43rd Revised Sheet No. 10
1st Rev 37th Revised Sheet No. 11B

Williston Basin has requested that the Commission accept this filing to become effective July 1, 1992.

Williston Basin states that the revised Primary tariff sheets are being filed to reflect recalculated fixed monthly surcharges and a revised throughput surcharge to be effective during the period July 1, 1992 through June 30, 1993 pursuant to the procedures contained in sections 32 and 33 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, First Revised Volume No. 1 and Commission Orders dated March 12, 1992 and April 21, 1992 in Docket Nos. RP90–137–001 and 003 and RP91–56–000. This filing reflects a revised total througput surcharge of 12.181 cents per dkt applicable to all sales and transportation volumes.

The instant filing also contains Alternate tariff sheets to be effective only if the Commission makes the Company's alternate rates filed in Docket No. RP92–163–000 effective prior to July 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 9, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13337 Filed 6–5–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–53–NG]

Panda Resources, Inc.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt of an application filed on April 16, 1992 by Panda Resources, Inc. (Panda), requesting blanket authorization to import up to 100 Bcf of natural gas from Canada over a two-year period beginning with the date of first delivery. Panda intends to use existing facilities, and will submit quarterly reports of its transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, July 8, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8233.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Panda, a Kansas corporation with its principal place of business in Tulsa, Oklahoma, is an independent marketer of natural gas. Panda proposes to import gas, acting either on its own behalf or as an agent for others, for sale to a variety of purchasers in U.S. markets, including commercial and industrial end-users, utility customers, pipelines and distribution companies. The terms of the supply contracts will be negotiated in response to market conditions.

The decision on the request for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties should comment on the issue of competitiveness as set forth in the policy guidelines. Panda asserts its proposed import transactions will be competitive. Parties opposing Panda's request for import authorization bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file

additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Panda's application is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 2, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–13375 Filed 6–5–92; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 92–08; Certification Notice—101]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self-certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Saranac Energy Company, Inc.,* Houston, Texas	05-18-92	Topping Cycle	240	Plattsburgh, NY.

* This certification supersedes Saranac's 1990 filing for an 80 MW facility for the same site which appeared in the FEDERAL REGISTER on April 23, 1990 (55 FR 15285).

Amendments to the FUA on May 21, 1987 (Public Law 100–42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

This self-certification may be reviewed in the Office of Fuels Program, Fossil Energy, room 3–056, FE–52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, or for further information call Myra Couch at (202) 586–6769.

Issued in Washington, DC on June 2, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–13376 Filed 6–5–92; 8:45 am]

BILLING CODE 6450–01–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Tuesday, June 23, 1992, from 9:30 a.m. to 12 noon. The meeting will be held at Eximbank in room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: The meeting agenda will include a discussion of the following topics: Advisory Committee Comment on Competitiveness Report; Subcommittee Reports: Small Business, Credit Reform, Latin America, EE/CIS, FCIA; and next steps/other topics.

PUBLIC PARTICIPATION: The meeting will be open to public participation; and the last 15 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Chere Sublett, room 1238, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566–8345, not later than June 22, 1992. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 17, 1992, Chere Sublett, room 1238, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 566–8345 or TDD: (202) 535–3913.

FURTHER INFORMATION: For further information, contact Chere Sublett, room 1238, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566–8345.

Chere Sublett,

Special Assistant to the Vice Chairman.

[FR Doc. 92–13479 Filed 6–5–92; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

Port of Oakland/Trans Pacific Container Service Corp.; et al; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1110 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200563–001.

Title: Port of Oakland/Trans Pacific Container Service Corporation Nonexclusive Preferential Agreement.

Parties: The Port of Oakland, Trans Pacific Container Service Corporation.

Synopsis: The Agreement provides for: (1) The deletion of a 253 square foot area from the Assigned Premises as provided for under the basic Agreement; (2) procedures relating to the possible future adjustment of the boundary of the Assigned Premises to allow for an extension of the east end of the wharf on adjacent leased terminal premises; and (3) a technical correction to the definition of "Costs of the Project".

Agreement No.: 224–200669.

Title: Maryland Port Administration and Ceres Marine Terminal, Inc., Lease Agreement.

Parties: The Maryland Port Administration ("MPA"), Ceres Marine Terminal, Inc. ("CERES").

Synopsis: The Agreement provides for MPA to lease to Ceres an 88.61 acre tract of land and Shed 8 at Dundalk Marine Terminal for five years.

Agreement No.: 232–011283–002.

Title: Nippon Yusen Kaisha and Hyundai Merchant Marine Co., Ltd. Space Charter Agreement in the Far East-U.S. Pacific Northwest Trades.

Parties: Nippon Yusen Kaisha, Hyundai Merchant Marine Co., Ltd.

Synopsis: The proposed amendment extends the expiration of the Agreement from July 16, 1992 to December 31, 1992, and permits either party to terminate the Agreement prior to the expiration date upon 60 days' prior written notice to the other party.

By order of the Federal Maritime Commission.

Dated: June 2, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–13271 Filed 6–5–92; 8:45 am]

BILLING CODE 6730–01–M

Pacific Coast/American Samoa Rate Agreement; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 5 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may respect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 002–010893–005.

Title: Pacific Coast/American Samoa Rate Agreement.

Parties: South Seas Steamship Company, Blue Star Pace Ltd., Polynesia Line Ltd.

Filing Party: R. Federic Fisher, Esq., Lillick & Charles, Two Embarcadero Center, San Francisco, California 94111–3996.

Synopsis: The proposed amendment expands the scope of the Agreement to include Tahiti. It also modifies the authority of the Agreement to permit the parties to only discuss and reach an agreement on matters concerning the trade from the U.S. West Coast to Tahiti. Adherence to any such agreement reached would be voluntary.

By order of the Federal Maritime Commission.

Dated: June 2, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–13275 Filed 6–5–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Old Kent Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 2, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Old Kent Financial Corporation, Grand Rapids, Michigan; to engage *de novo* in offering full-service brokerage services, through Old Kent Brokerage Services, Inc. The Board recently has added this activity to Regulation Y as an activity permissible for bank holding companies.

Board of Governors of the Federal Reserve System, June 2, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–13312 Filed 6–5–92; 8:45 am]

BILLING CODE 6210–01–F

Dale Earney Pahlke, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 29, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Dale Earney Pahlke to acquire 36.38 percent, Raymond Edward Reich to acquire 24.88 percent, and Stanley Harold Sayer to acquire 17.15 percent, all located in Hebron, North Dakota, of the voting shares of Hebron Bancshares, Inc., and thereby indirectly acquire Security Bank of Hebron, both located in Hebron, North Dakota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Jose Maria Ramirez, Jr., San Ygnacio, Texas; to acquire an additional 10.38 percent, for a total of 21.20 percent, of the voting shares of Zapata Bancshares, Inc., Mercedes, Texas, and thereby indirectly acquire Mercedes National Bank, Mercedes, Texas, and Zapata National Bank, Zapata, Texas.

Board of Governors of the Federal Reserve System, June 2, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–13311 Filed 6–5–92; 8:45 am]

BILLING CODE 6210–01–F

United Community Banks, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 2, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. United Community Banks, Inc., Blairsville, Georgia; to acquire 100 percent of the voting shares of Mountain Bank of Georgia, Hiawassee, Georgia.

Board of Governors of the Federal Reserve System, June 2, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–13313 Filed 6–5–92; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services is amended to reflect changes in chapter HN (National Institutes of Health) and chapter HA (Office of the Assistant Secretary for Health). These changes will restructure and strengthen the PHS research integrity program.

Specifically, the statement for the National Institutes of Health (NIH) (40 FR 22859, May 27, 1975, as amended most recently at 56 FR 61259, December 2, 1991) is amended to abolish the Office of Scientific Integrity (HNAC) in the Office of the Director, NIH, and transfer its functions to the Office of the Assistant Secretary for Health.

The statement for the Office of the Assistant Secretary for Health (OASH) (42 FR 61318, December 2, 1977 as amended most recently at 57 FR 15326–7, April 27, 1992) is amended to (1) establish an Office of Research Integrity (HAG) with two components, the Division of Policy (HAG2) and the Division of Research Integrity Assurance (HAG3), and (2) abolish the Office of Scientific Integrity Review (HA4)/OASH.

The Food and Drug Administration, because of its special responsibilities as a regulatory agency and its extensive investigative capacity, will continue to conduct its own investigations of alleged misconduct in FDA regulatory research under its bio-research monitoring program.

Office of the Assistant Secretary for Health

Under section HAS–10, Organization, delete 13. Office of Scientific Integrity Review (HA4), add new item 4. Office of Research Integrity (HAG) and renumber items 4–19 as items 5–20.

Under section HA–20, Functions, delete the title and statement for the Office of Scientific Integrity Review (HA4), and after the statement for the President's Council on Physical Fitness and Sports (HAC), add the following:

Office of Research Integrity (HAG)

The Director reports to the Assistant Secretary for Health and will: (1) Oversee and direct PHS research integrity activities on behalf of the Assistant Secretary for Health (ASH), with the exception of the regulatory research integrity activities of the Food and Drug Administration; (2) evaluate and monitor research integrity operations activities, including case investigations and evaluations; institutional assurance programs; and prevention and education activities; (3) coordinate the development of research integrity policies designed to ensure that subjects of investigations are treated fairly, including clear specification of what constitutes misconduct, a fair hearing process, appropriate time limits on pursuing allegations, and guidelines to discourage malicious allegations of misconduct; and (4) manage the financial resources and provide overall

administrative guidance in carrying out the activities.

Division of Policy (HAG2).

The Director and staff: (1) Develop policies, procedures, and regulations for presentation to the Advisory Committee on Scientific Integrity for their review and recommendation to ASH and the Secretary; (2) provide administrative and program support to the Advisory Committee on Scientific Integrity; (3) coordinate the dissemination or research integrity policies, procedures, and regulations; (4) conduct policy analyses and studies to improve PHS research integrity policies and procedures, including studies requested by the Advisory Committee; and (5) coordinate FOI and Privacy Act responsibilities pertaining to research misconduct issues.

Division of Research Integrity Assurance (HAG2)

The Director and staff: (1) Review and monitor investigations conducted by applicant and awardee institutions; (2) conduct inquiries and investigations involving extramural and intramural research programs when necessary; (3) develop proposed findings of misconduct and proposed sanctions; (4) evaluate investigations and investigatory findings and makes recommendations on whether or not to propose findings of misconduct and on appropriate sanctions; (5) assist the OGC in preparing and presenting cases for hearings before the Research Integrity Adjudications Panel of the DHHS Departmental Appeals Board; (6) provide information on PHS policies and procedures, as requested, to researchers who have made an allegation or have been accused of research misconduct; (7) assure that PHS policies and procedures are properly implemented in intramural and extramural misconduct cases; (8) administer, review, and approve institutional assurances; (9) administer the PHS ALERT system which provides pertinent information on investigations and sanctions to PHS awarding officials; and (10) develop and implement research misconduct prevention and education activities in PHS extramural and intramural programs.

National Institutes of Health

Section HN–B, Organization and Functions, is amended as follows:

After the statement for the Office of Research Services (HNAA), delete in its entirety the title and statement of the Office of Scientific Integrity (HNAC).

Section HA–30, Delegations of Authority. All delegations and redelegations of authority to officials of the Office of Scientific Integrity and the Office of Scientific Integrity Review that were in effect prior to the effective date of this reorganization and are consistent with this reorganization shall continue in effect, ending further redelegations.

Dated: May 29, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–13328 Filed 6–5–92; 8:45 am]

BILLING CODE 4160–17–M

Alcohol, Drug Abuse, and Mental Health Administration

National Institute on Drug Abuse; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Institute on Drug Abuse for July 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301/443–2755).

Substantive program information may be obtained from the contacs whose names, room numbers, and telephone numbers are listed below.

Committee Name: Behavioral Subcommittee, Mental Health Special Projects Review Committee.

Meeting Date: July 21–22, 1992.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Open: July 21, 9–10 a.m.

Closed: Otherwise.

Contact: Phyllis D. Artis, room 9C–15, Parklawn Building, Telephone (301) 443–6470.

Dated: June 2, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–13246 Filed 6–5–92; 8:45 am]

BILLING CODE 4160–20–M

National Institute of Mental Health; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of an advisory committee of the National Institute of Mental Health for July 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, a portion of this meeting will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

The summary of the meeting and roster of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number are listed below.

Committee Name: Biobehavioral/Clinical Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: July 14–15, 1992.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: July 14, 9 a.m. to 9:30 a.m.

Closed: Otherwise.

Contact: Iris W. O'Brien, room 10–42, Parklawn Building, Telephone (301) 443–2620.

Committee Name: Sociobehavioral Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: July 21–23, 1992.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: July 21, 9 a.m. to 9:30 a.m.

Closed: Otherwise.

Contact: H. Noble Jones, room 10–22, Parklawn Building, Telephone (301) 443–9042.

Dated: June 2, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–13245 Filed 6–5–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

[Program Announcement Number 247]

Demonstration/Epidemiology Projects for the Prevention of Secondary Disabilities

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of Fiscal Year 1992 funds for competitive grant applications for Demonstration/Epidemiology Projects. Applications are being accepted for financial assistance to support projects to build a prevention information base and support programs to prevent secondary disabilities/conditions. Secondary disabilities/conditions (hereafter called secondary conditions) are discussed and defined by the Institute of Medicine in its report, Disability in America. "People with disabling conditions are often at risk for developing secondary conditions that can result in further deterioration in health status, functional capacity, and quality of life. Secondary conditions by definition are causally related to a primary disabling condition and can be either a pathology, an impairment, a functional limitation, or an additional disability."

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the areas of Health Promotion, Health Protection, Preventive Services, and Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized by section 301(a) (42 U.S.C. 241(a)) and section 317 (42 U.S.C. 247(b)) of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, disability service groups such as advocacy and voluntary organizations and independent living centers, and federally recognized Indian Tribal Governments are eligible for these grants

Availability of Funds

It is anticipated that approximately $400,000 will be available to support two demonstration/epidemiology projects with an average award of $200,000 each. Grant awards are expected to be made on or about September 30, 1992 for a twelve month budget period within a project period of two or three years, depending upon the scope of the approved project. Funding beyond Fiscal Year 1992 will be dependent upon satisfactory progress and the availability of funds.

Use of Funds

Grant funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services directly related to project activities consistent with the approved scope of work. Project funds may not be used to supplant other applicant or collaborating agency funds available, or for construction, or to lease or purchase facilities or space, or for patient care. Project funds may not be used for individualized preventive measures (direct patient support) such as for wheelchairs or medical appliances unless specifically approved by the funding agency.

Purpose

The purpose of these awards is to develop public health approaches and/or conduct epidemiological studies that will lead to better understanding of the disabling process and the resultant secondary conditions that occur in targeted groups of persons with disabilities. These studies can: (1) Determine the prevalence of specified secondary conditions; (2) define the range of the disabling process, including health status and functional abilities; (3) determine risk factors associated with specified secondary conditions and obstacles that limit function or quality of life; or (4) evaluate the effectiveness of public health interventions aimed at reduction of specified secondary conditions. Grantees are expected to document the results of their study in a manner that states, institutions, and other organizations concerned with public health, disabilities prevention and/or rehabilitation can benefit.

Project activities in two targeted groups will be supported under this announcement:

1. Secondary conditions associated with developmental disabilities:

Applicants may address those conditions associated with one or more of the following: cerebral palsy, spina bifida, fetal alcohol syndrome, and mental retardation.

2. Secondary conditions in persons with disabilities as a result of spinal cord and/or head injuries:

Such secondary conditions may include cardiovascular-cardiopulmonary; genitourinary, bowel, and reproductive; neuro/musculoskeletal; skin-related; and psychosocial conditions.

In order to have representation in all areas, at least one award will be made in each of the two targeted groups.

Project activities must offer full access to persons with disabilities and provide evidence that all project programs will involve and be accessible to persons with disabilities. Projects should present their capacity to share costs for portions of the project by staff support or other contributions by the applicant or collaborating organizations.

Program Requirements

Applicants must develop an intervention demonstration and evaluation program or conduct an epidemiological study that will contribute to a national information base for the prevention of secondary conditions. A demonstration project or epidemiological study focused on a targeted group should be designed to address one or more of the following:

1. Determine the prevalence of specified secondary conditions.

2. Define the disabling process and status of persons with a specific disability, including their health and functional status, in order to better determine the nature of preventable secondary conditions.

3. Determine risk factors associated with specified secondary conditions and obstacles that limit function or quality of life.

4. Develop model education and behavior-directed programs for persons with disabilities that will focus on susceptible populations and risk factors for secondary conditions.

5. Develop and evaluate a model intervention program with the objective of prevention of secondary conditions.

6. Evaluate the effectiveness of existing prevention programs that are directed toward the prevention of secondary conditions and assess their potential for replication.

Evaluation Criteria

Applications for Demonstration/Epidemiology Projects will be reviewed and evaluated for technical merit based on the following factors: (Total 100 Points)

Evidence of Need and Understanding of the Problem: (10 Points)

This criteria includes the quality and consistency of the applicant's proposal with respect to the national disabilities problem, and the purpose of this grant. This section should present the applicant's recognition of the public health significance of the problem and the need for such knowledge directed toward reducing the incidence, prevalence, severity, and economic burden of secondary conditions.

2. Capacity to Conduct the Project: (20 Points)

This criteria relates to the special capability of the applicant to conduct a project of this nature, taking into account its reputation in the field, including that of its key staff and science leadership; its ability to access all necessary data and client information; and its ability to demonstrate a pre-eminent position among its colleagues as an appropriate agency to carry out the project.

3. Applicant Experience: (15 Points)

This criteria covers the applicant's experience and performance in conducting and evaluating similar demonstration or epidemiology projects, including the strength and value to the proposed project of the selected collaborating organizations.

4. Organization and Management Plan: (20 Points)

This criteria includes the level of control and management oversight capability within the applicant organization to conduct the proposed project. It includes the adequacy of the methods to be developed, the competence to be created through appropriate collaborations, the specificity of measureable project tasks, the feasibility of tasks being accomplished in the time-frames proposed, and the explicitness and quality of the management staffing plan. Attention will be given to the quality of the overall evaluation approaches to be used to monitor, assess, and modify (as necessary) project activities.

5. Epidemiologic and Technical Approach: (35 Points)

This criteria includes the extent to which the proposed methods and sources of data to be used that will produce the information necessary to quantify incidence, prevalence, and economic impact of preventable secondary conditions, and/or document evidence of intervention effectiveness and costs. It covers the strength of the study and/or follow-up design, the scope of confidentiality protection, and the quality of the analytic and dissemination plans.

6. Project Budget: (Not Scored)

This criteria includes the adequacy of the project application budget in relation to program operations, collaborations, and services; the extent of cost sharing; and the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds.

Other Requirements

A. Paperwork Reduction Act

Projects funded through this grant that involve the collection of information from ten or more individuals will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

B. Human Subjects and Confidentiality

This program involves research on human subjects. Therefore, applicants must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurances must be provided that the project or activity will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Executive Order 12372

Applications are not subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Catalog of Federal Domestic Assistance (CFDA)

The Catalog of Federal Domestic Assistance number is 93.184.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305 on or before July 30, 1992.

1. Deadlines

Applications will be considered to have met the deadline if they are either:

a. Received on or before the dealine date; or

b. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management techncial assistance may be obtained from Adrienne McCloud, Grants Management Specialist, Grants Mangement Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Altanta, Georgia 30305, (404) 842–6634.

Programmatic Technical Assistance may be obtained from Joseph B. Smith, Disabilities Prevention Program, National Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mailstop F–41, Atlanta, Georgia 30333, (404) 488–4905.

Please refer to Announcement No. 247 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone (202) 783–3238).

Dated: June 1, 1992.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–13283 Filed 6–5–92; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds for Demonstration Grants to States for Community Scholarship Programs

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $500,000 is available in fiscal year (FY) 1992 for demonstration grants to States for Community Scholarship Programs (CSP), as authorized under section 338L of the Public Health Service Act (PHS).

Grants will be awarded to States for the purpose of increasing the availability of primary health care in urban and rural health professional shortage areas (HPSA) by assisting community organizations to provide scholarships for the education of individuals to serve as health professionals in these communities.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity. This grant program is related to the objectives of improving access to and availability of primary health care services for all Americans especially the underserved populations. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone number 202–783–3238).

ADDRESSES: An application kit (Form PHS 5161–1 as approved by the Office of Management and Budget (OMB) under control number 0937–0189) may be requested by calling (301) 443–5887 or writing, to: Mrs. Harriet Green, Grants Management Branch (GMB), Bureau of Health Care Delivery and Assistance (BHCDA), 12100 Parklawn Drive, Rockville, Maryland 20857. Completed applications must be mailed to the same address. The GMB can also provide assistance on business management issues.

DUE DATES: To receive consideration, grant applications must be received by the Grants Management Office July 8, 1992. Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service or a legibly dated U.S. Postal Service postmark will be accepted as proof of timely mailing. Applications received after the announced closing date will not be considered for funding and will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: For further program information and technical assistance please contact Ms. Cheryl A. LaPointe, M.P.H., National Health Service Corps (NHSC), Bureau of Health Care Delivery and Assistance, HRSA, 5600 Fishers Lane, room 7A–29, Rockville, Maryland 29857, (301) 443–1470.

SUPPLEMENTARY INFORMATION: Under this program, States enter into agreements with public or private nonprofit community organizations located in HPSAs. These organizations will recruit qualified residents of their communities and provide scholarships to them to become physicians, certified nurse practitioners, certified nurse midwives, or physician assistants based on the needs of the communities.

This demonstration grant program is intended to be consistent with the efforts of the NHSC Scholarship and Loan Repayment Programs to meet the needs of underserved populations within HPSAs through the placement of primary care practitioners.

There will be approximately 12 grants ranging from $5,000 to $50,000. The number of grants will depend on the number of scholarships and types of practitioner training requested by the States. Only one grant will be made to each State annually. All awards will be made for one year budget periods with project periods of up to three years.

In an effort to assist the States and their communities in recruiting primary care practitioners (for purposes of this program, the term "primary health care" means health services provided by physicians practicing family medicine, internal medicine, pediatrics, or obstetrics and gynecology, certified nurse practitioners, certified nurse midwives, or physician assistants), the Federal portion of the grant will provide for 40 percent of the costs of each scholarship. The States and local communities will be responsible for the remainder of the costs of the CSP. The Secretary is required by statutue (Section 338L(1)(3) of the PHS Act) to ensure that, to the extent practicable, not less than 50 percent of the amount appropriated will be in the aggregate expended by the States for making grants to community organizations that are located in rural HPSAs.

In order for a State to receive a grant under this program, the State must:

1. Receive funding for at least one grant, cooperative agreement, or contract under any provision of the PHS Act other than section 338L, for the fiscal year for which the State is applying;

2. Agree that the grant program carried out by the State under section 338L will be administered directly by a single State agency;

3. Agree to make grants to community organizations located in HPSAs in order to assist those community organizations in providing scholarships to individuals enrolled or accepted for enrollment as full-time students in health professions schools (see definition of "primary health care" below);

4. Agree that forty percent of the total costs of the scholarships will be paid from the Federal grant made to the State;

5. Agree that sixty percent of the total costs of the scholarships will be paid from non-Federal contributions made in cash by both the State and the community organization through which the scholarship is provided.

a. The State must make available through these case contributions not less than 15 percent nor more than 25 percent of the scholarship costs.

b. The community organization must make available through these cash contributions not less than 35 percent nor more than 45 percent of the scholarship costs.

Non-Federal contributions provided in cash by the State and community organization (as described in a and b above) may not include any amounts provided by the Federal Government to the State, or community organization involved, or to any other entity. Non-Federal contributions required may be provided directly by the state and community organization involved, and may be provided through donations from public and private entities.

States should be aware, however, that donations from providers may be subject to provisions of Public Law 102–234, the Medicaid Voluntary Contribution and Provider—Specific Tax Amendments of 1991.

Scholarship Contracts

To receive a grant, the State must agree that it will award a grant to a community organization for scholarships only if:

1. The individual who is to receive the scholarship under a contract is a resident of the HPSA in which the community organization is located;

2. The individual is enrolled or accepted for enrollment as a full-time student in a health professions school that is accredited by a body or bodies recognized for accreditation purposes by the Secretary of Education;

3. The individual agrees to maintain a level of academic standing at the school at which a full-time student retains

eligibility to continue attendance under the school's standards and practices;

4. The individual and the community organization agree that the scholarship:

a. Will be expended only for tuition expenses, other reasonable educational expenses, reasonable living expenses incurred while in attendance at the school, and or payment to the individual of a monthly stipend of not more than the amount authorized for NHSC scholarship recipients under section 338A(g)(1)(B) of the PHS Act; and

b. Will not, for any year of such attendance for which the scholarship is provided, be in an amount exceeding the total amount required for the year for the purposes indicated in paragraph (a) above;

5. The individual agrees to meet the educational, certification, and licensure requirements necessary to become a primary care physician, nurse practitioner, midwife, or physician assistant in the State in which the individual is to practice under the contract; and

6. The individual agrees to provide primary health care in a HPSA in which a community organization is located for:

a. A number of years equal to the number of years for which the scholarship is provided, or for a period of 2 years, whichever period is greater; or

b. Such greater period of time as the individual and the community organization may agree; and

7. The individual agrees that, in providing primary health care pursuant to the scholarship, the individual (a) will not, in the case of an individual seeking care, discriminate on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the programs established in titles XVIII (Medicare) or XIX (Medicaid) of the Social Security Act, and (b) will accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII, and will enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX to provide service to individuals entitled to medical assistance under the plan.

Evaluation Criteria

Applications for grants will be reviewed and evaluated according to the following criteria:

1. The extent to which the application describes a mechanism to determine the appropriateness of a community organization's participation in the CSP;

2. The extent to which the application justifies and documents the number and type of primary care providers the State proposes to support through this program relative to the needs of the community;

3. The appropriateness and adequacy of a State's plan for administration of a CSP, to include the administrative and managerial capability of the employees involved, and their relevant program experience;

4. The adequacy of a State's proposed method of monitoring and evaluating a CSP scholar's fulfillment of their CSP contracts, including a breach of contract, and provisions for waivers and suspensions;

5. The extent to which the applicant's and community's recruitment plans are consistent with long-term plans for meeting the needs of the community's primary care system;

6. The level of community commitment and involvement with the program including coordination with other Federal, State and community programs for meeting health professional needs;

7. The extent to which the application provides estimates of the amounts of the grant funds that will be expended on primary care for rural HPSAs and similar estimate for urban HPSAs; and

8. The reasonableness of the administrative costs.

Other Grant Information

The CSP demonstration grant program is subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application package for this program will include a list of States with review systems and the single point of contact (SPOC) in each State for the review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necesary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline. The BHCDA does not guarantee that it will accommodate or explain its response to State process recommendations received after that date.

Grants will be administered in accordance with HHS regulations in 45 CFR part 92.

The OMB Catalog of Federal Domestic Assistance number for this program is 93.930.

Dated: April 15, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-13314 Filed 6-5-92; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-92-3451; FR-3295-N-01]

Mortgagee Review Board Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales Registration, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1824. The Telecommunications Device for the Deaf (TDD) number is (202) 708-4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989)) requires that HUD "publish in the Federal Register a description of and the cause for administrative action against a HUD-approved motgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from January 1, 1992 through April 30, 1992.

1. PFG Mortgage, Inc., Mission Viejo, California

Action: Withdrawal of HUD mortgagee approval.

Cause: Criminal conviction of the company's president, who is also the owner, for offenses which reflect upon the responsibility, integrity, and ability

of the company to participate in HUD-FHA programs as an approved mortgagee.

2. Waterfield Financial Corporation, Fort Wayne, Indiana

Action: Settlement Agreement that provides for indemnification to HUD in the amount of $371,591 for claim losses and agreement by the company not to submit any further claims on 103 improperly originated HUD-FHA insured mortgages.

Cause: A HUD Office of Inspector General audit of the company's Phoenix, Arizona branch office which cited violations of HUD–FHA single family program loan origination requirements. The violations included: Failure to conduct face-to-face interviews with mortgagors; failure to assure that mortgagors made the minimum required investment in the property; permitting an interested third party to perform loan origination functions resulting in the submission of false or accurate informtion to HUD–FHA; and permitting improper sales inducements in connection with a builder's "trade-in" programs resulting in the circumvention of HUD–FHA minimum investment requirements by mortgagors.

3. SCM Mortgage Company, Inc., Mesquite, Texas

Action: Withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program loan origination requirements, and, noncompliance with a previous Mortgagee Review Board probation action.

4. Phoenix Mortgage Marketing, Inc., Miami, Florida

Action: Suspension.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program requirements that included: Submission of false mortgagors' verifications of employment; and failure to assure that a mortgagor made the minimum required investment in the property.

5. Prime Mortgage Investors, Inc., Coral Gables, Florida

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD–FHA requirements that included: Failure to implement and maintain a Quality Control Plan for the Originaiton of HUD–FHA insured mortgages; failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); submitting false information to HUD–FHA; failure to properly verify the income of self-employed mortgagors; processing, approving and closing loans prior to the borrower completing the HUD 92900 application; failure to perform face-to-face interviews with mortgagors; and permitting a loan officer to act as a realtor on the same transaction.

6. First Home Mortgage, Inc., Jonesboro, Arkansas

Action: Withdrawal of HUD mortgagee approval unless the principals of the company dispose of their ownership interest, the company indemnifies HUD for claim losses in connection with certain improperly originated loans, and the company implements a Quality Control Plan for loan origination.

Cause: A HUD monitoring review citing violations of HUD–FHA program requirements that included: Failure to develop and implement a Quality Control Plan in accordance with HUD–FHA requirements; failure to disclose to mortgagors an identity of interest between FHM and a settlement agent; failure to separate loan development, processing, and underwriting functions; failure to disclose and improperly processed sweat equity arrangements; failure to ensure that borrowed funds were not used for closing; failure to reduce the acquisition cost of properties by the amount of sellers' concessions; failure to report liabilities of mortgagors; failure to adequately verify the income of self-employed mortgagors; failure to verify that the income of mortgagors would continue for five (5) years; and failure to verify sources of funds.

7. Harber-Stephenson, Inc., Benbrook, Texas

Action: Withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD–FHA requirements that include: Failure to implement a Quality Control Plan in accordance with HUD–FHA requirements; omitting mortgagor liabilities; withholding information on mortgagors which demonstrates an inability to manage their financial affairs; withholding information on mortgagors' housing expenses; submitting inaccurate or incomplete information concerning mortgagors' employment; failure to comply with HUD–FHA source of funds requirements; failure to timely remit to HUD–FHA One-Time Mortgage Insurance Premiums (OTMIPs); failure to maintain an escrow account for the segregation of mortgagor escrow funds; and failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

8. Renet Financial Corporation, Anaheim, California

Action: Probation.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program loan origination requirements that included: Use of loan agents to assist in processing HUD–FHA insured mortgages; misleading the Department with respect to Renet's HUD–FHA insured mortgage operations; failure to perform face-to-face interviews with mortgagors; and payment of referral fees in connection with HUD–FHA insured mortgages.

9. Goldpost Mortgage Corporation, Rochester, New York

Action: Proposed Settlement Agreement.

Cause: A HUD monitoring review citing a violation of HUD–FHA single family program loan origination requirements. The company improperly calculated closing costs which resulted in mortgagors not making the minimum required downpayment, and HUD–FHA overinsurance of the mortgages.

10. Century Bank, Denver, Colorado

Action: Proposed settlement.

Cause: A HUD monitoring review citing a violation of HUD–FHA single family program requirements. The Bank increased the appraised value of certain properties without proper justification.

11. Clarence A. Marshall Mortgage & Investment Company, Inc. Kansas City, Missouri

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD Office of Inspector General Audit Report which cited violations of HUD–FHA single family program loan origination requirements that included: Omitting mortgagor liabilities; permitting a mortgagor to use unsecured borrowed funds to meet the minimum required investment in the property; failure to determine the value of chattel in connection with a collateral loan for funds to close; and failure to separate the company's mortgage lending and real estate operations.

12. Richards Woodbury Mortgage Corporation, Salt Lake City, Utah

Action: Probation.

Cause: Use of misleading advertising in connection with HUD–FHA single family mortgage insurance programs.

13. California Loan Funding, Inc., Huntington Beach, California

Action: Probation.

Cause: Use of misleading advertising in connection with the HUD–FHA Title I property improvement program.

14. Bowest Corporation, La Jolla, California

Action: Proposed Settlement Agreement.

Cause: A HUD monitoring review citing violations of HUD-FHA insured mortgage servicing requirements that include: Failure to take prompt collection action to minimize the number of delinquent loans; failure to initiate foreclosure in a timely manner; and failure to comply with the requirements of the assignment program.

15. Rapid Mortgage Corporation, Los Angeles, California

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to remit to HUD-FHA One-Time Mortgage Insurance Premiums (OTMIPs) collected from mortgagors in HUD-FHA mortgage transactions.

16. Kirkland Mortgage Corporation, Atlanta, Georgia

Action: Withdrawal of HUD Mortgagee approval.

Cause: A HUD Office of Inspector General investigation, and HUD monitoring review citing violations of HUD-FHA program requirements that include: Submitting an application for FHA insurance which contained a fraudulent gift letter; failure to maintain the required warehouse line of credit; failure to comply with the HUD-FHA reporting requirements for approved lenders pursuant to the Home Mortgage Disclosure Act (HMDA); and failure to remit appraisal fees in a timely manner to HUD-FHA approved fee appraisers.

17. Mark I Mortgage Corporation, Cerritos, California

Action: Withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD-FHA requirements that included: Failure to maintain a warehouse line of credit; failure to maintain the requisite staff, including underwriters, necessary to meet the requirements of a nonsupervised Direct Endorsement lender; failure to maintain and implement a Quality Control Plan; failure to meet the principal activity requirement of a nonsupervised mortgagee; misleading the Department concerning its approval status; and ordering appraisals on FHA cases from staff appraisers of another Direct Endorsement lender.

18. Mid Valley Mortgage Corporation, Denver, Colorado

Action: Withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD-FHA requirements, and, failure to comply with HUD-FHA financial reporting requirements. The violations disclosed by the monitoring review included: Failure to remit borrowers mortgage payments to servicing mortgagees; failure to conduct its business in accordance with the plan indicated by its application for HUD-FHA mortgagee approval; failure to implement and maintain a Quality Control Plan; failure to timely remit to HUD-FHA mortgage insurance premiums collected from mortgagors; failure to submit cases to HUD-FHA for mortgage insurance endorsement in a timely manner; failure to establish and maintain an escrow account to segregate mortgagor escrow funds; and failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

19. Old Homestead Mortgage Company, Moses Lake, Washington

Action: Letter of Reprimand.

Cause: Failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

20. American States Mortgage Corporation, Homewood, Illinois

Action: Letter of Reprimand.

Cause: Failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

Dated: May 26, 1992.

Arthur J. Hill,

Assistant Secretary for Housing - Federal Housing Commissioner.

[FR Doc. 92–13266 Filed 6–5–92; 8:45 am]

BILLING CODE 4210–27–M

Office of Administration

[Docket No. N–92–3450]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 28, 1992.

Kay Weaver,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Hearing—Contracting with Resident-Owned Businesses, FR–2856.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information is necessary so that the applicants (resident-owned businesses) seeking to qualify for non-competitive contracting with the Public Housing Agency (PHA) will be eligible to be solicited by the PHA as a contractor for a proposed contract.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments, Non-Profit Institutions and Small Businesses or Organizations.

Frequency of Submission: One-time and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	500		1		16		8,000
Recordkeeping	500		2		2		2,000

Total Estimated Burden Hours: 10,000.

Status: New.

Contact: Paul Fletcher, HUD, (202) 708–4214; Landry Williams, Jr., HUD, (202) 708–4214; Jennifer Main, OMB, (202) 395–6880.

Dated: May 28, 1992.

[FR Doc. 92–13242 Filed 6–5–92; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NM–940–02–4730–12)

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on July 7, 1992.

New Mexico Principal Meridian, New Mexico.

T. 7 S., R. 15 W., Accepted May 13, 1992, for Group 863 NM
T. 17 N., R. 12 W., Accepted May 13, 1992, for Group 872 NM
T. 7 S., R. 14 W., Accepted May 14, 1992, for Group 893 NM
T. 20 N., R. 14 K., Accepted April 17, 1992, for Group 843 NM
T. 19 N., R. 14 W., Accepted March 27, 1992, for Group 843 NM
T. 18 N., R. 14 W., Accepted March 27, 1992, for Group 843 NM
T. 17 N., R. 14 W., Accepted March 27, 1992, for Group 843 NM
T. 12 N., R. 4E., Accepted May 13, 1992, Supplemental Plat
T. 26 N., R. 7 W., Accepted April 17, 1992, Supplemental Plat
T. 8 N., R. 5 E., Accepted April 16, 1992, Supplemental Plat

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, a notice that they wish to protest prior to the proposed official filing date given above.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–7115. Copies may be obtained from this office upon payment of $2.50 per sheet.

Dated: May 28, 1992.

John P. Bennett,

Chief, Cadastral Survey.

[FR Doc. 92–13249 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–FB–M

[ID–030–00–4320–12]

Idaho Falls District Advisory Council; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet Tuesday, July 14, 1992. Notice of this meeting is in accordance with Public Law 92–463. The meeting will begin at 9 a.m. at the Idaho Falls District Office located at 940 Lincoln Rd., Idaho Falls, Idaho 83401.

The agenda for this meeting includes an update on new recreational developments including two interpretive trails on Hell's Half Acre Lava Flow, and an interagency Visitor Information Center. Council members will hear an update on implementation of the Snake River Activity/Operations Plan and take a tour of the Egin Lakes area.

The meeting is open to the public, however interested persons must provide their own transportation for the field tour. Anyone wishing to bring an item to the attention of the Council should mail written material to be received at the address shown above prior to 4:30 p.m., July 13, 1992. A public comment period will be held from 9 a.m. to 9:30 a.m.

Detailed minutes of the meeting will be maintained in the Idaho Falls District Office, 940 Lincoln Rd., Idaho Falls, Idaho 83401 and will be available for public review during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Dated: May 27, 1992.

Gary L. Bliss,

Acting District Manager.

[FR Doc. 92–13285 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–GG–M

[CO–050–4212–11; COC–51078]

Realty Action; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action COC–51078 Amendment; Direct Sale of Public Land or Recreation and Public Purposes Act Lease/Sale; Chaffee County, Colorado.

SUMMARY: On March 22, 1990 the following lands were proposed for direct sale to Chaffee County under the Federal Land Policy and Management Act of 1976 (55 FR 10697):

New Mexico P.M.

T.51N., R.8E.,
Section 21, NE¼.

That notice is hereby amended to include classification of those lands for lease or sale under the Recreation and Public Purposes Act of 1926 (43 U.S.C. 869) and the regulations thereunder (43 CFR 2740.2912). These lands are hereby segregated from all other public land laws, including the mining laws, for a

period of eighteen months, or until patent is issued.

DATES: Comments may be submitted on this action until July 13, 1992.

ADDRESSES: Bureau of Land Management, Canon City District, PO Box 2200, Canon City, CO 81215–2200.

FOR FURTHER INFORMATION CONTACT: David Hallock, (719) 275–0631.

Dated: May 27, 1992.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 92–13287 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–JB–M

[OR–110–4212–13;G–2–267]

Realty Actions, Sales, Leases, etc.; Oregon

ACTION: Notice of Realty Action—Exchange of public lands in Jackson County and notice of intent to amend the Jackson/Klamath Management Framework Plan (MFP) (Serial No. OR–48393).

SUMMARY: In accordance with 43 CFR 1610.3–1(d) and 43 CFR 2201.1, notice is given that the Bureau of Land Management (BLM) in the State of Oregon, Medford District, intends to amend the Jackson/Klamath Management Framework Plan (MFP). The purpose of the plan amendment is to make available for exchange certain lands in Jackson County. The MFP amendment will specifically facilitate the Cascade Ranch exchange proposal. The on-going Medford disrict-wide Resource Management Plan (RMP) will address broad land tenure adjustment opportunities and will provide overall direction and decisions sometime in 1993. The lands identified for this exchange were not addressed in the MFP and the opportunity to acquire certain lands by exchange may not be available in 1993.

SUPPLEMENTARY INFORMATION: The Jackson/Klamath MPF proposed plan amendment and exchange proposal includes public lands described as follows:

Willamette Meridian, Jackson County, OR

T. 37 S., R. 2 E.,
Sec. 5;
Sec. 7, Lots 3 & 4, NE¼NE¼, S½NE¼, SE¼NW½, E½SE¼, SE¼;
Sec. 17;
Sec. 18, Lot 1, NE¼NW¼, NE¼NE¼;
Sec. 19, Lot 4, E½, E½W½,
Sec. 20, N½NE¼, SE¼NE¼.

Aggregating approximately 2,560 acres.

The publication of this notice in the **Federal Register** will segregate the above land to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange. As provided by 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or two years from date of this publication, whichever occurs first.

Non-federal lands to be acquired by exchange will be selected from several parcels which are identified as high priority sites for acquisition if the proponent is successful in securing an option to purchase. These parcels are considered to contain high public values including riparian areas, wildlife, fisheries, special status plants, and recreation potential.

A subsequent notice of realty action and more specific information concerning the proposed plan amendment will be published at a later date. This notice will describe more specifically the lands which will be acquired by exchange, the terms and conditions of the exchange, and will include information on the availability of the environmental assessment with the public comment period announced.

Major issues involved in the plan amendment include the specific tracts to be exchanged. Parcels will be screened by an interdisciplinary team through the environmental assessment process. disciplines to be represented on the interdisciplinary team preparing the plan amendment and environmental assessment (EA) are: Wildlife, recreation, watershed, botany, soils, lands and realty, cultural forestry, recreation and land use planning. Preliminary planning criteria and alternatives are now being prepared and will be made available for review at the Medford District Office.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the proposed exchange and plan amendment, including the environmental analysis will be available at a later date at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. For more information contact Mary Johnson at (503) 770–2310.

DATES: At this time a 45-day comment period is provided to meet the requirements of the Notice of Intent to prepare a plan amendment. This 45-day period will begin with publication of the Notice in the **Federal Register**. At this time BLM is inviting comments to be considered in the preparation of the EA. When the EA is completed, a public comment period will be provided and announced in a subsequent **Federal Register** notice.

Maurice Ziegler,

Acting District Manager.

[FR Doc. 92–13286 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–33–M

[OR–110–6310–11–257A: G2–268]

Medford District Office, Grants Pass Resource Area

AGENCY: Bureau of Land Management.

ACTION: Final ruling.

SUMMARY: This notice announces the final ruling on prohibited acts in Rogue National Wild and Scenic Area.

FOR FURTHER INFORMATION CONTACT: Harold J. Belisle, Grants Pass Area Manager, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504; Telephone 503–770–2200.

SUPPLEMENTARY INFORMATION:

Prohibited Acts in Rogue National Wild and Scenic River Area

Pursuant to 43 CFR 8351.2–1, the following is prohibited on the lands and water surface within the Rogue River component of the National Wild and Scenic Rivers System administered by the Bureau of Land Management (BLM) which are described in Exhibit A of this Order. The Order shall remain in effect until further notice.

1. Boating

Going onto or being upon the Rogue River between Grave Creek and the Siskiyou National Forest boundary at Marial using any type of floatable craft or object without: (1) A Rogue Wild and Scenic River management group permit (of which BLM is a signatory), or (2) a joint BLM/US Forest Service (USFS) permit, or (3) an individual BLM permit for such use. The provisions of this paragraph shall not be applicable to persons engaged in non-commercial boating trips on the river from September 16 to May 31.

2. Boat Launching

Using any of the lands described in Exhibit A located between Grave Creek and the Siskiyou National Forest boundary at Marial for the purpose of entering or going upon the Rogue River with any type of floatable craft or object without: (1) A Rogue Wild and Scenic River management group permit (of which BLM is signatory), or (2) a joint BLM/Forest Service permit or (3) an

individual BLM permit for such use. The provisions of this paragraph shall not be applicable to persons engaged in non-commercial boating trips on the river from September 16 to May 31.

3. Operation of Motorized Boats

Operation of any motorized boat on the Rogue River between Grave Creek and the Siskiyou National Forest boundary at Marial between May 15 and November 15. The provisions of this paragraph shall not be applicable to persons having a valid BLM permit for such use.

4. Camping

a. Camping for a period longer than 14 consecutive days (7 days in the Wild Section of the river), or as posted.

b. Camping in any area posted as closed to that use.

c. Occupying any portion of a developed or undeveloped recreation site for other than recreation purposes.

d. Occupying between 10 p.m. and 6 a.m. a place designated for day use only.

5. Building, Maintaining, Attending or Using a Fire

a. Carelessly ora negligently throwing or placing any burning substance, or any other substance or thing which may cause a fire, or firework or explosive into any place where it might start a fire; causing timber, slash, brush, or grass to burn except as authorized by BLM permit; leaving a fire without completely extinguishing it; allowing a fire to escape from control; or building, attending, maintaining or using a campfire without adequately removing all flammable material from around the campfire, which could allow its escape.

b. Failing to observe State fire closure regulations or notices issued by the Oregon State Department of Forestry.

c. Building, maintaining, attending, or using an open fire in any configuration within 400 feet of the river's edge, except when the fire is in a firepan or similar device that will contain the fire and its residue.

6. Improper Disposal of Trash or Human Waste

a. Placing in or near a river, stream, or other water any substance which does or may contribute to polluting such river, stream, or other water.

b. Failing to dispose of all trash or human waste either by removing it from the area or by depositing it into receptacles or at places provided for such purposes. Human waste may also be buried six to eight inches deep in the soil, away from campsites or water.

c. Leaving in a trash container or dump, any trash brought as such from private property.

7. Disorderly Conduct

a. Engaging in fighting, or in threatening, abusive, indecent or offensive behavior.

b. Making unreasonable noise.

c. Being nude where a person may be observed by the general public. No person under the age of 10 years shall be considered nude under this paragraph.

8. Other Acts

a. Violation of the terms of any written permission or permit issued by the BLM which authorizes an act or omission otherwise prohibited by the order.

b. Operating motorized vehicles off roads within BLM Wild and Recreational Sections of the Rogue National Wild and Scenic River corridor, except for the following five areas which are open today use vehicle parking on the gravel bar. These five limited access points are the gravel bar fishing areas at Rand Recreation site, Rocky Riffle Recreation site, Griffin Park Group Recreation site, Argo Recreation site and White Horse Recreation site.

c. Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property (1) from June 1 to September 15 from the land or waters between Grave Creek and the Siskiyou National Forest boundary a Martial, or (2) at any time within 150 yards of a residence, building developed or undeveloped recreations site, or occupied area, or (3) at any time across or on any public road, or across or on any trail or body of water whereby any person or property is exposed to injury or damages as a result of such discharge.

d. Constructing, placing, or maintaining any kind of road, trail, fence enclosure, communication equipment building or other structure of improvement without a BLM authorization.

e. Damaging, disturbing or removing any timber or other vegetation or forest product, except as authorized by a BLM permit or timer sale contract. The provisions of this paragraph shall not be applicable to the use by campers of reasonable amounts of dead and down timber for campfire.

f. Defacing, disturbing or removing any national feature or any property of the United States.

g. Entering any structure owned or controlled by the United States when such structure is not designated open to the public.

h. Digging in, disturbing, or removing any archaeological, paleontological or historical site or removing, disturbing, injuring or destroying any archaeological, paleontological or historical object, without a BLM permit.

i. Digging, scraping, disturbing, or removing natural land features for the purpose of mineral prospecting or mining. The provisions of this paragraph shall not be applicable to: (1) Valid existing mining rights, (2) recreational gold panning that does not require digging, dredging, or sluicing, or (3) the use in accordance with State law and regulations of up to a four inch diameter motorized suction dredge in the river channel between the mouth of the Applegate River and the mouth of Grave Creek. Suction dredges are restricted to operations below water level and within existing banks.

j. Using or possessing a bicycle, motorized vehicle, saddle, pack or draft animal on the Rogue River Trail from the trailhead at Grave Creek to the Siskiyou National Forest boundary at Marial, or the Rainie Falls Trail from the trail head at Grave Creek to Rainie Falls.

k. Operation or use of any aircraft within 1,000 feet of the water surface from June 1 to September 15 between Grave Creek and the Siskiyou National Forest boundary at Marial. The provisions of this paragraph shall not be applicable to the operation and use of aircraft by persons forced to land due to circumstances beyond their control and by persons with a BLM permit for such use.

l. Failing to exhibit required permits and identification when requested by a BLM Authorized Officer or representative. Failure to properly display boat tag.

m. Conducting any kind of business enterprise without a BLM permit.

n. Threatening, resisting, intimidating or interfering with any BLM official or employee engaged in or on account of the performance of his or has official duties in the administration of the National Wild and Scenic Rogue River.

o. Jumping, falling, rappelling, dangling, throwing or causing or assisting any object, person or animal to jump, fall, rappel, dangle or be thrown from Grave Creek Bridge or Hellgate Bridge. Occupancy of any portion of the above bridges, other than the roadway or pedestrian footpaths located on these bridges.

The provisions of paragraphs 1, 2, 3, 4, and 8, b, c, j, k and o shall not be applicable to any federal, state or local officer or member of any organized rescues of fire fighting force in the performance of an official duty.

Violation of these prohibitions is punishable by a fine of not more than $500 or imprisonment for not more than 6 months, or both. Title 16 U.S.C. 3. 43 CFR 8351.2–1.

Exhibit A

The land and water surface administered by the Bureau of Land Management to which this order applies are as follows:

1. Lands administered by the Bureau of Land Management between the mouth of the Applegate River and Grave Creek (Recreational Section of the Rogue National Wild and Scenic River):

Willamette Meridian

T. 34 S., R. 7 W.
- Sec. 6 lots 4, 5, 6, and 7;
- Sec. 18, lot 4, SW¼SE¼SW¼;
- Sec. 19, lots 2 and 4, W½E½NW¼, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 314 page 978 and Vol. 312 page 1122;
- Sec. 30, lot 1 including a portion of M.S. No. 734, Robert Dean Placer Mining Claim;
- Sec. 31, lot 4 SE¼SW¼, W½SW¼SE¼,

T. 34 S., R. 8 W.
- Sec. 1, lots 8, 9, 10, 11, 12 and 13, SE¼SE¼SW¼, SE¼NW¼SE¼;
- Sec. 11, SE¼SE¼SE¼,
- Sec. 12, lots 1, 2, 3, 4, 5, 6, 7, and 8, NW¼NE¼NE¼, SE¼SW¼NW¼ E½NW¼SE¼, NW¼NW¼SE¼;
- Sec. 13, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, NE¼NW¼SW¼, M.S. No. 796 Grubstake;
- Sec. 14, E¼NE¼NE¼;
- Sec. 24, lots 1, 3, 4, 5, and 8, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 321 page 1348, Vol. 321 page 1346, Vol. 320 page 1669, and Vol. 321 page 2000;
- Sec. 25, lots 1, 2, 3, 6, 8, and 9, SE¼NE¼N W¼, SE¼SW¼, portion of M.S. No. 734 Robert Dean Placer claim;
- Sec. 36, lots 2 and 12, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 317 page 968, Vol. 322 page 19, and Vol. 330 page 1098.

T. 35 S., R. 7 W.
- Sec. 3, S½SW¼SW¼;
- Sec. 4, lots 5, 6, 7, 8 and 9, S½NW¼SE¼, plus that property described in that deed recorded in the Josephine County Deed Records in Vol. 316 page 382;
- Sec. 5, lots 5, 6, 7, 8, 9, 10, 11, and 12, SW¼NW¼, NE¼SW¼;
- Sec. 6, lots 1, 2, 3, 4, 6, and 12, SE¼NW¼, plus that property described in that deed recorded in the Josephine County Deed Records in Vol. 317 page 1465;
- Sec. 9, lots 1 and 2, N½NW¼NE¼;
- Sec. 10, lots 1, 4, 5, 6, 7, and 8, all those portions of land in lots 2 and 3, and the SE¼NE¼ lying south and west of the Merlin-Galice Road. N½SW¼NW¼, SE¼SW¼NW¼, NE¼NE¼SW¼, E½NW¼NE¼SW¼, NE¼SW¼SE¼, N½SE¼SE¼, SE¼SE¼SE¼;
- Sec. 11, that property described in those deeds recorded in the Josephine County Deed Records in Vol. 308 page 725, Vol. 309 page 865, Vol. 308 page 1274, Vol. 308 page 1270, Vol. 308 page 1274, and a portion of that property described in Vol. 323 page 975;
- Sec. 14, that property described in those deeds recorded in the Josephine County Deed Records in Vol. 323 page 427, Vol. 321 page 1300, Vol. 324 page 1464, Vol. 307 page 1100, and a portion of that property described in Vol. 323 page 973;
- Sec. 15, NE¼NE¼NE¼;
- Sec. 23, lots 3 and 7, E½NE¼NW¼, E½W½NE¼NW¼, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 329 page 1313, Vol. 330 page 181, Vol. 329 page 1836, Vol. 340 page 2020, Vol. 332 page 192, Vol. 335 page 726, Vol. 331 page 1066, Vol. 321 page 1298, and a portion of those properties described in Vol. 319, page 48 and Vol. 287 page 726;
- Sec. 24, lots 1 and 2, NE¼SW¼, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 336 page 1578, Vol. 336 page 2007, and a portion of that property described in Vol. 319 page 48 and Vol. 287 page 728;
- Sec. 25, lots 1, 3, and 4, N½NE¼NW¼, SW¼NE¼NW¼, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 307 page 1103, Vol. 333 page 1391, Vol. 313 page 370, and a portion of those properties described in Vol. 336 page 196, Vol. 333 page 2047, Vol. 330 page 192, Vol. 326 page 1963 (correction deed in Vol. 330 page 514), and Vol. 330 page 194;
- Sec. 26, lot 3, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 314 page 1567, Vol. 318 page 1874, Vol. 320 page 781, Vol. 330 page 190, and a portion of those properties described in Vol. 336 page 196, Vol. 333 page 2047, Vol. 330 page 194, Vol. 326 page 1963 (correction deed in Vol. 330 page 514), Vol. 330 page 192, and Vol. 298 page 85;
- Sec. 35, lot 1, an island lying in portions of the S½NE¼ and the N½SE¼, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 313 page 1220, Vol. 327 page 1356, Vol. 319 page 1478, Vol. 285 page 557, and a portion of that property described in Vol. 278 page 734;
- Sec. 36, lots 1 and 2, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 326 page 1711, Vol. 283 page 449, Vol. 326 page 1200, and a portion of those properties described in Vol. 326 page 1963 (correction deed in Vol. 330 page 514), and Vol. 289 page 973.

T. 35 S., R. 8 W.
- Sec. 1, lots 1, 2, 3, 4, excluding M.S. No. 865 Genevieve Placer, 5, and 8, E½NW¼S W¼, N½NW¼SE¼, SW¼NW¼SE¼, plus an island lying on the S½SW¼.

T. 36 S., R. 6 W.
- Sec. 18, a portion of the property described in that deed recorded in the Josephine County Deed Records in Vol. 324 page 1458;
- Sec. 19, a portion of that property described in that deed recorded in the Josephine County Deed Records in Vol. 324 page 1458.

T. 36 S., R. 7 W.
- Sec. 1, that property described in those deeds recorded in the Josephine County Deed Records in Vol. 326 page 1707 and Vol. 323 page 438;
- Sec. 2, lots 8, 9, and 10, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 283 page 607, Vol. 319 page 1487, Vol. 314 page 352, Vol. 281 page 147, Vol. 322 page 1584, Vol. 305 page 388, and Vol. 326 page 1201;
- Sec. 11, lots 5, 6, 7, and 8, plus that property described in those deeds recorded in the Josephine County Deed Records in Vol. 316 page 1291, Vol. 333 page 152, Vol. 316 page 287, and a portion of that property described in Vol. 312 page 1124;
- Sec. 12, lots 1 and 2, W½SW¼;
- Sec. 13, a portion of that property described in that deed recorded in the Josephine County Deed Records in Vol. 324 page 1458;
- Sec. 14, that property described in those deeds recorded in the Josephine County Deed Records in Vol. 316 page 1967, Vol. 308 page 610, Vol. 313 page 372, Vol. 327 page 1358, Vol. 306 page 643, and a portion of that property described in Vol. 312 page 1124.

2. Lands administered by the Bureau of Land Management between Grave Creek and the Siskiyou National Forest boundary at Marial (Wild Section of the Rogue National Wild and Scenic River).

Willamette Meridian

T. 33 S., R. 7 W.
- Sec. 31 lot 4..

T. 33 S., R. 8 W.
- Sec. 31, SE¼SE¼SE¼;
- Sec. 32, lots 1, 2, 3, 4, 5, 6, and 7. S½SE¼ NE¼, E½NW¼SW¼;
- Sec. 33, lots 1, 2, 3, 4, 5, 6, 7, and 8, S½ SW¼NW¼, NE¼SE¼SW¼, W½SE¼ SW¼, N½S½SE¼;
- Sec. 34, lots 1, 3, 4, 5, 6, 7, 8, 9, and 10, W½ SE¼NW¼, SE¼SE¼NW¼, N½SW¼ SW¼, SE¼SW¼, M.S. No. 553 Gold Ring;
- Sec. 35, lots 9 and 10, M.S. No. 553 Gold Ring SE¼SW¼;
- Sec. 36, lot 5 and SW¼SE¼.

T. 33 S., R. 9 W.
- Sec. 8, S½SE¼SW¼, S½SW¼SE¼, SW¼ SE¼SE¼;
- Sec. 15, S½SW¼SW¼;
- Sec. 16, lots 1, 2, 3, 4, and 5, W½NW¼ NW¼, SE¼NW¼NW¼, W½SE¼ NW¼, E½SW¼SW¼, NW¼SW¼ SW¼, W½NW¼SE¼, SE¼NW¼SE¼, S½SE¼SE¼;
- Sec. 17, lots 1, 2, 3 4, 5, 6, 7, and 8, N½ SW¼NE¼, N½NW¼SW¼, NE¼NE¼ SE¼;
- Sec. 18, lots 1, 2, 3 excluding Winkle Bar and Winkle Bar Extension M.S. No. 844, 4

excluding Winkle Bar and Winkle Bar Extension M.S. No. 844. 5 excluding Winkle Bar and Winkle Bar Extension M.S. No. 844. 6, 7, 8, 9, 11, 12, 13. SE¼ NE¼NE¼, SW¼NE¼NW¼;
Sec. 21, lots 1, 2, and 3, N½SW¼NE¼, SE¼SW¼NE¼, N½NE¼NW¼, SE¼ NE¼NW¼, NE¼NE¼SE¼;
Sec. 22, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, S½ SE¼NE¼, NW¼NW¼, N½NW¼SW¼, N½SW¼SE¼;
Sec. 23, lots 1, 2, and 3, SW¼NE¼SW¼, W½SW¼SE¼;
Sec. 26, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, W½ NW¼NE¼, SW¼NW¼SE¼, W½SW¼ SE¼,;
Sec. 27, E½NE¼NE¼;
Sec. 35, lots 1, 2, 3 excluding St. Charles Placer M.S. No. 862, 4, 5, 6, excluding Boston Placer and St. Charles Placer M.S. No. 862, 7 excluding Boston Placer M.S. No. 862, 8, 9, and 10, W½NW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, E½ NW¼SW¼, S½NE¼SE¼,
Sec. 36, 1, 2, and 3, SW¼NE¼SW¼, S½ NW¼SW¼,
T. 33 S., R. 10 W.,
Sec. 9, lots 1, 2, 3, and 4, S½SW¼NE¼, SE¼NE¼, E½NE¼SW¼, SW¼NE¼ SW¼, N½SE¼SE¼;
Sec. 10, lots 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13, S½NE¼NE¼, SE¼NW¼NE¼, NW¼SW¼SW¼, N½NE¼SE¼, except for that property described in Vol. 40 page 642 of the Curry County Deed Records;
Sec. 11, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, SW¼ NW¼NW¼, W½SE¼NW¼, SE¼SE¼ NW¼, NE¼SW¼SW¼, W½NW¼ SE¼, SE¼NW¼SE¼; SE¼SW¼SE¼;
Sec. 12, lots 1 and 2, W½SW¼SE¼, SE¼ SW¼SE¼;
Sec. 13, lots 1, 2, 3, 4, 5, 6, 7, and 8, NE¼ SE¼NW¼, NE¼NE¼SE¼;
Sec. 14, lots 1, 2, and 3, NE¼NE¼NW¼.
T. 34 S., R. 8 W.
Sec. 1, lots 1, 2, 3, 4, 5, 6, and 7, NW¼SW¼ NE¼, NW¼NW¼SW¼, an island in the SW¼NW¼(lots 5 and 6);
Sec. 2, lots 1, 2, 3, 4, 5, 6, 7, and 8, NE¼ SW¼NW¼, N½SE¼NW¼, N½NE¼ SE¼, an island in the SE¼NE¼(lot 7 and 8);
Sec. 3, lot 1;
Sec. 5, lots 3, 4, and 5, NW¼SW¼NW¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, N½NE¼SW¼, NW¼NE¼SE¼, N½ NW¼SE¼,
T. 34 S., R. 9 W.,
Sec. 1, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, N½ N½SE¼;
Sec. 2, lots 1, 2, and 3.

3. The Rogue River from the mouth of the Applegate River downstream to the Siskiyou National Forest Boundary at Marial.

Maurice Ziegler,

Acting District Manager.

[FR Doc. 92–13291 Filed 6–5–92; 8:45 am]

BILLING CODE 4310–33–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 120)]

Chesapeake Western Railway Co.—Abandonment—Rockingham and Augusta Counties, VA; Findings

The Commission has found that the public convenience and necessity permit the Chesapeake Western Railway Company to abandon 20.2 miles of railroad between milepost HS–5.00 at Pleasant Valley and milepost HS–25.20 at Staunton in Rockingham and Augusta Counties, VA. The proposal also includes abandonment of 2.65 miles of other tracks.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Section of Legal Counsel, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: June 1, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92–13321 Filed 6–5–92; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL COMMISSION ON AMERICA's URBAN FAMILIES

Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the National Commission on America's Urban Families will hold a meeting with invited public officials and others at the Center for Community Cooperation, 2900 Live Oak Street, Dallas, Texas at 12:45–3 p.m. on Tuesday, June 16, 1992.

The purpose of the meeting is to enable invited participants to express their views on the condition of America's urban families and present suggestions on programs that work to strengthen families.

Because of the need to commence the activities of the Commission as soon as possible and because of the early deadlines for the report required of the Commission, this notice is being provided at the earliest possible time.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 200 Independence Avenue SW., room 305–F, Washington, DC 20201.

Anna Kondratas,

Executive Director.

[FR Doc. 92–13326 Filed 6–5–92; 8:45 am]

BILLING CODE A150–04–M

NATIONAL EDUCATION GOALS PANEL

Meeting

AGENCY: The National Education Goals Panel.

ACTION: Notice of meeting.

SUMMARY: The National Education Goals Panel was established by a Joint Statement between the President and the Nation's governors dated July 31, 1990. The panel will determine how to measure and monitor progress toward achieving the national education goals and report to the nation on the progress toward the goals.

TENTATIVE AGENDA ITEMS: The agenda for the meeting includes a discussion and review of indicators for the 1992 Goals Report; a review on the status of updating data reported last year; and a progress report on an Early Childhood Assessment System that the Panel endorsed at the previous meeting.

DATE: The thirteenth meeting is scheduled for Monday, June 15, 1992.

ADDRESS: The Holiday Inn Capitol Hotel, 550 C Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The National Education Goals Panel office at (202) 632–0952. Please give your name to indicate attendance.

Dated: June 1, 1992.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 92–13315 Filed 6–5–92; 8:45 am]

BILLING CODE 3127–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Declined General Applications for Federal Assistance; Reconsideration

ACTION: Notice of proposed procedures.

AGENCY: National Endowment for the Arts, NFAH.

SUMMARY: Process for reconsideration of declined general applications for Federal assistance.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel ((202) 682–5418 (voice) or (202) 682–5496 (TDD)), National Endowment for the Arts, 1100 Pennsylvania Avenue NW., room 522, Washington, DC 20506.

DATES: To be assured of consideration, comments must be in writing and must be received on or before August 7, 1992.

ADDRESSES: Comments should be sent to: Office of the General Council, 1100 Pennsylvania Avenue NW., room 522, Washington, DC 20506. Comments received will be available for public inspection at: 1100 Pennsylvania Avenue NW., Washington, DC 20506, room 522, from 9 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Audio versions of this proposed procedure can be made available on request.

1. Purpose

The National Endowment for the Arts relies on peer panel review of grant applications as the first step in assuring informed funding. Panel recommendations are subsequently reviewed by the National Council on the Arts, which provides advice to the Chairperson. The Chairperson then decides whether to fund the applications recommended by the Council.

This Circular establishes a procedure for reconsideration of applications for financial and technical assistance, which have been declined by the National Endowment for the Arts based on negative recommendations of the peer review panel. The Endowment will not reconsider the amount of any grant awarded. This Process does not apply to applications recommended by the peer review panel but rejected by the Council or Chairperson. Reconsideration of such applications is had at the discretion of the Chairperson only. Appeals of Council or Chairperson rejections should be directed to the Chairperson. The provisions of this Circular, which updates and amends the earlier (1983) Circular on this subject, do not apply to procurement governed by the Federal Acquisition Regulations.

2. Policy

(a) Statement

Award of financial and technical assistance is discretionary. Panel determinations are made using criteria described in the program guidelines; several criteria involve subjective, qualitative judgments which are not subject to reconsideration. Notwithstanding this fact, a Project Director, Authorizing Official, or individual whose application has been declined may obtain an explanation of the declination from the appropriate Program Director. Following receipt of the explanation, if the Project Director, Authorizing Official, or individual applicant (hereafter referred to as "applicant") believes that the declination was based on one or more of the following Grounds for Reconsideration, reconsideration may be obtained under the procedure outlined in section 3, below.

(b) Ground(s) for Reconsideration

Reconsideration of grant declinations is available solely for one of the following three reasons relating to procedural impropriety or error:

(i) Application declined based on criteria other than those appearing in the relevant guidelines;

(ii) Application declined based on influence of individual(s) with conflict of interest on peer review panel;

(iii) Application declined based on information provided by staff, panelists, or others, but not including the applicant, that was materially inaccurate or incomplete at the time of review despite the fact that the applicant has provided the Endowment staff with accurate and complete information as part of the regular application process.

3. Procedures To Be Followed for Reconsideration

(a) Explanation by Program Director

Within 30 days following written notification from the Endowment of its decision on any application, the applicant may request an explanation for a declined application from the appropriate Program Director. This initial request may be by telephone, in person, or in writing. The Program Director will explain within 30 days the basis for declination. Upon request from the applicant, the Program Director shall provide the substance of the peer review panel comments, the names of all panel and staff members, and the name of the appropriate Deputy Chairperson (hereafter "Deputy") who will review the applicant's Request for Reconsideration.

(b) Request for Reconsideration

If the Program Director's explanation, or other reliable information, appears to the applicant to indicate the presence of one or more of the "Grounds for Reconsideration" listed in paragraph 2(b) above, the applicant may submit to the Deputy a written Request for Reconsideration. This written request must reference a particular ground(s) for reconsideration and specify the facts supporting his or her claim, with enough particularity to enable the Deputy to determine whether the claim is meritorious. A request of this nature will be considered only if (a) the Request for Reconsideration is based on one or more of the grounds listed in paragraph 2(b); (b) the applicant has obtained an explanation from the appropriate Program Director; (c) the applicant has specified with sufficient particularity the facts supporting his or her claim; (d) the Request for Reconsideration is received by the Deputy within 45 days after the applicant received the Program Director's explanation.

(c) Action by the Appropriate Deputy

(i) The appropriate Deputy will review the applicant's Request for Reconsideration, records of the panel discussions, the applicant's application file, and any other relevant materials to determine if the panel's recommendation was influenced by one or more of the grounds listed in paragraph 2(b). In conducting this review, the Deputy may request additional information from the applicant and may obtain advice from a new peer review panel. In addition, the Deputy may request an audit, financial survey, or site visit of the applicant, but no revisions or additions to the grant application materials will be accepted in connection with the Request for Reconsideration, except to the extent that additional materials are necessary to substantiate the applicant's claim that one of the grounds listed in paragraph 2(b) exists.

(ii) The Deputy may conduct the reconsideration personally or may designate another Endowment official who had no part in the initial evaluation to do so. The term "Deputy," as used here, applies to such designees.

(iii) The Deputy will provide written notification of the results of the reconsideration within 45 days. If the Deputy cannot provide such notice within 45 days, the applicant will receive a written explanation of the

need for more time and an estimate of when the results can be expected.

(d) Resolution of Requests for Reconsideration

(i) If the Deputy determines that none of the grounds listed in paragraph 2(b) existed, the declination will be affirmed.

(ii) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) existed, but the recommendation of the peer review panel was not affected, the declination will be affirmed.

(iii) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) existed, and he or she can determine, based on the materials reviewed, that but for the infirmity in the peer review process, the application would have been recommended, the application will be considered by the National Council on the Arts at its next regularly scheduled meeting.

(iv) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) occurred, but he or she cannot determine whether but for the infirmity, the peer review panel would have recommended the application, the application will be reviewed by a new panel. If the new panel recommends the application, the National Council on the Arts will review it at the next regularly scheduled meeting.

(v) The Deputy's determinations shall be final.

4. Reporting Requirements

Each appropriate Deputy will maintain a record of Requests for Reconsideration. The record will include the date of receipt, the name of the applicant, including name of organization or institution where applicable, the application number, and once the Deputy's review is complete, the date on which each applicant was notified of the results of the reconsideration, and what those results were.

Dated: May 28, 1992.

Amy Sabrin,

General Counsel, National Endowment for the Arts.

[FR Doc. 92-13267 Filed 6-5-92; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the International Advisory Panel (Federal Advisory Committee on International Exhibitions Section) to the National Council on the Arts will be held on June 23, 1992 from 9 a.m.-5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 4:30 p.m.-5:30 p.m. The topics will be general review and budget discussion.

The remaining portion of this meeting from 9 a.m.-4:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 2, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Edowment for the Arts.

[FR Doc. 92-13276 Filed 6-5-92; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Dance on Tour: State Component Section) to the National Council on the Arts will be held on June 23, 1992 from 9 a.m.-5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3 p.m.-5 p.m. The topics will be policy discussion and guidelines review.

The remaining portion of this meeting from 9 a.m.-3 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 2, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-13277 Filed 6-5-92; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Dance on Tour: Regional Component Section) to the National Council on the Arts will be held on June 24, 1992 from 9 a.m.-5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3 p.m.-5 p.m. The

topics will be policy discussion and guidelines review.

The remaining portion of this meeting from 9 a.m.–3 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: June 2, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–13278 Filed 6–5–92; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (CEOSE).

Dates and Times: June 24, 1992; 1 to 5 p.m. (Open); June 25, 1992; 8:30 a.m. to 4 p.m. (Open), 4 p.m. to 5 p.m. (Closed); June 26, 1992; 9 a.m. to 12 p.m. (Open), 12 p.m. to 3 p.m. (Closed).

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550

Type of Meeting: Part-open.

Contact Person: Mary M. Kohlerman, Executive Secretary, CEOSE, National Science Foundation, 1800 G Street, N.W., rm. 1225, Washington, DC 20550. Telephone: (202) 357–7461.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To review outcomes of effective intervention programs to attract women, minorities, and persons with disabilities to participate in science and engineering, and to prepare the Report to Congress.

Agenda:

Open Sessions

June 24: 1 p.m. to 5 p.m.—Presentations/ Discussions—Report on top 20 institutions and discussion on response to report on Persons with Disabilities.

June 25: 8:30 a.m. to 4 p.m.—Panel on programs to attract women, minorities, and persons with disabilities to science and engineering, and analyses of outcomes.

June 26: 9 a.m. to 12 p.m.—Plans for future programs, and planning of Report to Congress.

Closed Sessions

June 25: 4 p.m. to 5 p.m. and Juen 26, 12 p.m. to 3 p.m.—Working sessions to review program performance and draft Report to Congress.

Reason for Closing: The subcommittees will be discussing individual performances of NSF employees in the context of the report; therefore, these portions are closed to the public. These matters are exempt under 5 U.S.C. 552 b(c)(6) of the Government in the Sunshine Act.

Dated: June 3, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–13368 Filed 6–5–92; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Review of RI 38–107 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. RI 38–107—Verification of Who is Getting Payments, is used to verify that the person entitled to receive payments is receiving the monies payable. Failure to collect this information would cause OPM to pay monies absent the assurance of a correct payee.

The number of respondents for RI 38–107 is 3000; we estimate that it takes 10 minutes to fill out the form. The annual burden is 500 hours.

For copies of this proposal, call C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received on or before July 8, 1992.

ADDRESS: Send or deliver comments to—

Ms. Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief, Administrative Management Branch, (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–13269 Filed 6–5–92; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30768; File No. SR–Amex–92–06]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to Proposed Rule Change Relating to Trading Index Warrants and Non-Option Derivative Products on the Floor by Registered Traders

June 2, 1992.

On February 3, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to apply most of the provisions of Amex Rule 958 to trading in index warrants and non-option derivative products. Accordingly, Amex market makers trading these instruments would be

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

governed by Amex Rule 958 in lieu of Amex Rules 111 and 114. On March 11, 1992, the Amex submitted to the Commission Amendment No. 1 to the proposed rule change.[3] On March 13, 1992, the Amex submitted Amendment No. 2 to the proposal.[4] The proposed rule change as well as Amendments 1 and 2 thereto were published for comment in Securities Exchange Act Release No. 30493 (March 18, 1992), 57 FR 10394 (March 25, 1992). No comments were received on the proposal. On April 24, 1992, the Amex submitted Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on Amendment No. 3 to the proposed rule change from interested persons. In addition, this order approves the proposed rule change, as amended.

As stated above, the proposal would apply most of the provisions of Amex Rule 958 to trading in index warrants and non-option derivative products.[6] Currently, index warrants, like other securities traded under the Amex's equity trading rules, are traded on the Exchange floor by specialists and Registered Equity Market Makers ("REMMs") pursuant to the provisions of Amex Rule 114, which include applicable provisions of Amex Rule 111.[7] Under the proposed rule change, a regular member who seeks to engage in supplemental market making activity in index warrants would be required to register as a Registered Trader under Amex Rule 958, and could trade for his or her own account in such issues pursuant to the provisions of this rule.[8] In contrast to REMMs trading pursuant to Amex Rules 111 and 114, competing market makers governed by Rule 958 [*e.g.*, Registered Options Traders ("ROTs")] have continuous affirmative market making obligations.[9] In recognition of this, such market makers therefore are designated as specialists on the Exchange for all purposes under the Act,[10] and are entitled to "good faith" market maker margin with respect to transactions on the floor in their assigned securities.[11] In lieu of the margin that would otherwise be required,[12] good faith margin treatment permits a trader to finance up to 100% of his or her securities positions' market value. The Amex anticipates that application of the requirements of Rule 958 to supplemental Exchange market makers will encourage additional competing market maker activity in index warrants and enhance index warrant liquidity, while ensuring the continuous market making obligations of such members.

The Exchange's proposal also would affect the trading of non-option derivative products on the Amex. Article IV, section 1(b)(4) of the Exchange Constitution was recently amended [13] to provide that "derivative products" under that section include, in addition to standardized options, securities "which are issued by * * * [a] limited purpose entity or trust and which are based on the performance of an index or portfolio of other publicly traded securities."[14] This amendment was adopted specifically so that such securities may be traded by Amex options principal members ("OPMs") and limited trading permit ("LTP") holders [15] as a means of increasing depth and market liquidity for such products.[16] The Amex believes that subjecting the trading of such market basket-type securities to Rule 958 will further enhance market making competition and provide additional depth and liquidity.

The Exchange also is proposing to add several commentaries to its floor trading rules. The new commentaries would provide that proprietary transactions on the floor in both index warrants and non-option derivative products, which were previously traded pursuant to Exchange's equity trading rules, will be governed by and effected in accordance with Amex Rule 958. The following is the text of the proposed rule change:

Rule 111 Restrictions on Registered Traders

* * * Commentary .12

Transactions on the Floor in (i) index warrants and (ii) derivative products [as defined in Article IV, section 1(b)(4) of the Exchange Constitution] which are otherwise traded under the Exchange's equity trading rules, by a member for an account in which he has an interest shall be governed by the provisions of Rule 958. (See Commentary .10 of Rule 958.)

Rule 114 Registered Equity Market Makers

* * * Commentary .14

Transactions on the Floor in (i) index warrants and (ii) derivative products [as defined in Article IV, section 1(b)(4) of the Exchange Constitution] which are otherwise traded under the Exchange's equity trading rules, by a member for an account in which he has an interest shall be governed by the

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[3] Specifically, under the original proposal, Rule 958, Commentary .10 would have excluded Rule 958(c)(ii) and (f), and Rule 958, Commentary .02, .03, .07 and .08 from application to trading by Registered Traders in index warrants and non-option derivative products. Amendment No. 1 would apply Rule 958(c)(ii) and Commentary .02 and .07 to such trading. See letter from Geraldine M. Brindisi, Corporate Secretary, Amex, to Mary Revell, Branch Chief, SEC, dated March 10, 1992.

[4] *See* letter from Geraldine M. Brindisi, Corporate Secretary, Amex, to Mary Revell, Branch Chief, SEC, dated March 13, 1992, which proposes to apply Rule 958 in its entirety to transactions by Registered Traders in index warrants and non-option derivative products. As a result, Amendment No. 2 would apply Rule 958(f) and Commentary .03 and .08 to such trading.

[5] Originally, the Amex proposed, in Commentary .10 to Rule 958, that Rule 111, Commentary .02 would not be applicable to ROTs trading index warrants and non-option derivative products. Amendment No. 3 deletes this reference to Rule 111, Commentary .02, which defines "on the floor," as unnecessary, because Rule 958, Commentary .01 defines the term for purposes of Rule 958. In addition, the Amex amended the numbering of the commentaries such that Rule 111, Commentary .11 would now be Commentary .12, and Rule 114, Commentary .13 would not be Commentary .14. *See* letter from Geraldine M. Brindisi, Corporate Secretary, Amex, to Mary Revell, Branch Chief, SEC, dated April 23, 1992.

[6] Rule 958 is entitled Options Transactions of Registered Traders.

[7] Rule 111 is entitled Restrictions on Registered Traders; Rule 114 is entitled REMMs.

[8] REMMs as well as any other Registered Traders under Rule 111 currently trading index warrants or non-option derivative products will be required to register under Rule 958 and will thus become subject to the provisions of this rule in lieu of Rule 114 governing REMMs or Rule 111. Conversation between Michael Cavalier, Assistant General Counsel, Amex, and Edith Hallahan, Attorney, Commission, on March 11, 1992.

[9] See Amex Rule 958(c).

[10] See Amex Rule 958, Commentary .01.

[11] Good faith margin treatment is defined in Regulation T, issued by the Board of Governors of the Federal Reserve System, as the amount of margin which a creditor, exercising sound credit judgment, would customarily require for a specified security position and which is established without regard to the customer's other assets or securities positions held in connection with unrelated transactions. *See* 12 CFR 220.2(k), 220.12(b)(3), 221.2(f), and 221.5(c)(10) (1991).

[12] 12 CFR 220.18. Generally, the required initial margin for each equity security held in a margin account is 50% of the current market value of the Security. Amex Rule 462 provides that the margin which must be maintained in margin accounts of customers is 25% of the market value of the security.

[13] *See* Securities Exchange Act Release No. 28612 (November 14, 1990), 55 FR 48308 (approving File No. SR-Amex-90-17).

[14] The Amex notes that Article IV, Section 1(b)(4) specifies that for purposes thereof the term "derivative products" does not include warrants of any type or closed-end mutual funds.

[15] Previously, Article IV, Section 1(b)(4) of the Amex Constitution limited OPMs to trading standardized options and section 1(j)(3) authorized LTP holders to trade only standardized index options, specifically excluding both from trading warrants and other securities.

[16] An example of such a non-option derivative product is the SuperUnits of certain SuperTrusts sponsored by SuperShare Services Corporation ("SSC"). The Commission has approved a proposed rule change relating to the listing and trading of unit investment trust securities such as SuperTrust securities. See Securities Exchange Act Release No. 30394 (February 21, 1992), 57 FR 7409 (approving File No. SR-Amex-90-06).

provisions of Rule 958. (See Commentary .10 of Rule 958.)

Rule 958 Option Transactions of Registered Traders

* * * Commentary .10

Transactions on the Floor in index warrants by Registered Traders who are regular members, and transactions by Registered Traders on the Floor in derivative products [as defined in Article IV, section 1(b)(4) of the Exchange Constitution] which are otherwise traded under the Exchange's equity trading rules, shall be effected in accordance with the provisions of this Rule. In addition, Rule 111, Commentary .01 shall not apply to such transactions (See Rule 111, Commentary .12, and Rule 114, Commentary 114.)

Proposed Commentary .10 to Rule 958 would exclude the application of Rule 111, Commentary .01 [17] to transactions in index warrants and non-option derivative products. Registered Traders under Rule 958 are specifically exempt from Rule 111, Commentary .01 by Rules 958, Commentary .06, which refers to Rule 950(c) [18] Because of the nature of the affirmative obligations imposed by Rule 958, the Amex believes that a limitation on the number of Registered Traders in an index warrant or non-option derivative product trading crowd would be inappropriate.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-92-06 and should be submitted by June 29, 1992.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of sections 6(b) and 11(b) and Rule 11b-1 thereunder.[19] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, in that the proposal should encourage market making competition, and enhance depth and liquidity, in index warrants and non-option derivative products, while ensuring the continuous market making obligations of these Exchange members. Because the proposed rule change would treat ROTs trading index warrants and non-option derivative products as specialists, subjecting them to continuous affirmative market making obligations, the Commission also believes that the proposal is consistent with section 11(b) and rule 11b-1, which provide that the rules of a national securities exchange may permit members to be registered as specialists, subject to the requirement of maintaining fair and orderly market in their specialty securities.

Because ROTs trading index warrants and non-option derivative products on the Amex under Rule 958 will assume continuous affirmative market making obligations, they will be treated as specialists for margin purposes As a result, these traders will be entitled to good faith margin treatment, which may attract more market makers. Increased market making activity due to the good faith margin incentive should, in turn, provide increased depth and liquidity to the markets for index warrants and non-option derivative products, which should improve the quality of markets. The Commission believes that market depth and liquidity should prevent fraudulent and manipulative practices as well as promote just and equitable principles of trade. The Commission also believes that more liquid markets generally protect investors and the public, because manipulation should be less likely and best execution of orders should be furthered. In addition, the Commission finds that it is consistent with the Act to exclude the application of Commentary .01 to Rule 111 to ROTs trading index warrants and non-option derivative products. The Exchange stated that the purpose of the proposed rule change is to enhance supplemental market making activity. Accordingly, the Commission believes that it is appropriate not to limit the number of traders in a trading crowd seeking to establish or increase a position.

Moreover, the Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule change, which was published in the **Federal Register** for the full statutory period, provided that index warrants and non-option derivative products would be traded by ROTs under Amex Rule 958.[20] Proposed Amendment No. 3 is simply a clarification of the definition of the term "on the floor' and a renumbering of certain supplementary material.

Accordingly, the Commission believes that approval on an accelerated basis is appropriate.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-92-06 and should be submitted by June 29, 1992.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[21] that the proposed rule change (SR-Amex-92-06) is approved.

[17] This provision limits to three the number of Registered Traders in a trading crowd permitted to establish or increase a position for accounts in which they have an interest, absent written Floor Official approval.

[18] Specifically, Commentary .02 to Rule 950(c) provides that the number of ROTs in a trading crowd establishing or increasing a position for accounts in which they have an interest may be limited if it is determined by two Floor Officials that this is in the interest of fair and orderly markets.

[19] 15 U.S.C. 78f(b) and 78k(b) (1988); 17 CFR 240.11b-1 (1991).

[20] See Securities Exchange Act Release No. 30493 (March 18, 1992), 57 FR 10394 (March 25, 1992).

[21] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13360 Filed 6-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30762; File No. SR-DGOC-92-01]

Self-Regulatory Organization; Delta Government Options Corp.; Order Approving on an Accelerated Basis a Proposed Rule Change Relating to Credit Enhancement Facility and Margin and Trading Limits

June 1, 1992.

On April 14, 1992, the Delta Government Options Corp. ("DGOC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-DGOC-92-01) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The purpose of the proposed rule change is to amend DGOC's credit enhancement facility ("CEF") and margin and trading limits. Notice of the proposed rule change appeared in the **Federal Register** on May 26, 1992, to solicit comments from interested persons.[2] This order approves the proposed rule change on an accelerated basis.

I. Description of the Proposed Rule Change

The proposed rule change amends the amount of CEF DGOC will maintain and the procedures in which DGOC will call for additional margin or will set trading limits for participants. Under the proposal, DGOC will retain a maximum CEF of $150,000,000 with a per participant sublimit of $30,000,000. The new CEF will be comprised of an in place $100,000,000 surety bond and a standby $50,000,000 committed surety bond.[3] Both surety bonds will be provided by Capital Market Assurance Corp. ("CapMAC"). Currently, DGOC carries a CEF in the aggregate amount of $200,000,000 which consists of a $100,000,000 letter of credit provided by Security Pacific National Bank ("Security Pacific") and a $100,000,000 surety bond with a per participant limit of $20,000,000 provided by CapMAC.

DGOC's procedures requires DGOC to maintain at all times CEF in an amount equal to three times the Maximum Potential System Exposure ("MPSE").[4] In order to remain in continuous compliance with this requirement while at the same time maintaining a lower CEF, DGOC will make calls for additional margin from individual participants more frequently. DGOC will monitor each participant's contribution to MPSE, and at those times when a participant approaches the new CEF per participant sublimit, DGOC will call upon the participant to provide additional margin.[5] If necessary, DGOC will also set additional trading limits if the participant approaches the CEF's per participant sublimit.[6]

The proposal will also change the applicant approval process. That process requires all entities that have issued part of the CEF, as well as DGOC, to approve all participant applications. Under the proposal, DGOC and CapMAC, in its capacity as issuer of the surety bond, will have to approve an applicant before the applicant can become a participant in DGOC. Under the current process, DGOC and both Security Pacific, in its capacity as issuer of the letter of credit, and CapMac, in its capacity as issuer of the surety bond, must approve an applicant before it can become a participant.

II. Discussion

The Commission believes that DGOC's proposed rule change is consistent with section 17A of the Act and, specifically, with section 17A(b)(3) of the Act.[7] Section 17A(b)(3)(F) of the Act requires that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this requirement.

In order to insure sufficient protection against the risk of participant default, which is the principal source of financial risk to DGOC, DGOC's procedures require DGOC to maintain CEF in an amount equal to three times its MPSE. During periods of volatility, DGOC satisfies this requirement by: (i) Requiring participants to post additional margin, (ii) restricting trading to closing positions only, or (iii) purchasing more CEF.

DGOC believes that carrying a large prepurchased CEF does not represent the most cost effective method for managing risk.[8] Under the proposed rule change, DGOC will monitor the total MPSE and will take the necessary steps to ensure that MPSE does not exceed ⅓ the total CEF rather than maintaining a large prepurchased CEF. DGOC will require participants to deposit additional margin or will set additional trading limits at those times when one or more participants approach the new CEF's per participant sublimit.[9] DGOC has represented to the Commission that DGOC believes that the proposal will have no adverse impact on: (1) DGOC's ability to safeguard securities or funds, (ii) DGOC's operational system and procedures and the safety and soundness of those systems and procedures, or (iii) the overall safety and soundness of the system.

The proposed rule change should also increase the usage of the system through an increase in its participant base by providing a more efficient method of approving applicants. Under the proposal, applicants will require approval from only DGOC and CapMAC. DGOC believes that potential applicants may have been discouraged by the approval process as it currently exists because of the existence of two CEF providers and the time involved for their independent review processes. Thus the Commission believes that DGOC's proposal will facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds under DGOC's control or for which it is responsible as required under Section 17A of the Act.

The Commission also finds that good cause exists to approve the proposal prior to the thirtieth day after publication of the notice of filing. DGOC's current arrangement with

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[22] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b).

[2] Securities Exchange Act Release No. 30710 (May 18, 1992), 57 FR 22004.

[3] To acquire the standby $50,000,000 surety bond, DGOC will be required to give the provider ten days advanced notice of DGOC's intention to make use of the surety bond.

[4] Basically, the MPSE is defined as the aggregate counterparty exposure that would be incurred should there be an adverse market movement of six standard deviations in the market price of treasury securities underlying DGOC options. DGOC Rules, Article I.

[5] DGOC is authorized by its rules to require participants to deposit additional margin if DGOC believes it is necessary for the safety of DGOC or participants. DGOC Rules, Article VI, section 603.

[6] As a condition of admission to DGOC, each participant must agree to conduct its trading of DGOC options within the trading limit DGOC establishes for that participant at the time of admission. DGOC is authorized to revise a participant's trading limit. DGOC Rules, Article II, section 204.

[7] 15 U.S.C. 78q-1(b)(3)(F).

[8] DGOC represented that the current prepurchased CEF is often ten to twenty times MPSE.

[9] DGOC represented that it has discussed the proposed rule change with its participants and that the participants have not objected to the requirement of posting additional margin.

Security Pacific will expire in the near future. In order to allow DGOC to put its new CEF into place concurrently with the expiration of the old CEF, the Commission finds good case for approving the proposal on an accelerated basis.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR–DGOC–92–01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13363 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30766; International Series Release No. 391; File No. SR–NASD–92–7]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. To Obtain Permanent Approval of the OTC Bulletin Board Service

June 1, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 12, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On June 1, 1990, the NASD initiated operation of the OTC Bulletin Board Service ("OTCBB Service" or "Service") in accord with the SEC's approval of File No. SR–NASD–88–19, as amended.[1] The OTCBB Service offers a real-time quotation medium that NASD member firms can elect to use to enter, update, and retrieve quotation information (including unpriced indications of interest) for equity securities traded over-the-counter that are not listed on the Nasdaq Stock Market nor on a registered national securities exchange (collectively referred to as "unlisted securities"). Essentially, the Service supports NASD members' market making in unlisted securities through authorized Nasdaq Workstation ™ PCs. Real-time access to quotation information displayed in the Service is available to subscribers of Level ⅔ Nasdaq service as well as subscribers of vendor-sponsored services that now carry OTC Bulletin Board data. The Service is currently operating under an interim approval that expires on June 30, 1992.[2]

The NASD hereby files this proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to obtain permanent approval of the OTCBB Service. This filing does not propose any modification to the update restriction applicable to market makers' quotations in foreign securities/American Depository Shares ("ADS") included in the Service

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to obtain Commission approval of the OTCBB Service on a permanent basis. Since the Service's launch in June, 1990, it has evolved into a significant electronic quotation medium for NASD members that actively trade unlisted securities. As of February 28, 1992, the Service reflected 10,408 market making positions with 261 NASD member firms displaying quotations/indications of interest in 4,085 unlisted securities. In addition, as a result of rule amendments approved by the Commission, quotations disseminated through the OTCBB are required to be firm for 100 shares. Further, several major vendors now distribute real-time quotation information emanating from the Service and its market maker participants.

As of February 28, 1992, the population of foreign securities and American Depository Shares (collectively referred to as "foreign/ADS issues") quoted in the OTCBB Service consisted of approximately 369 securities. This population has consistently represented less than 10% of all securities quoted in the Service. The NASD is not seeking, in conjunction with this proposal, to modify the quotation update restriction that has applied to these securities since the Service began operating in June 1990. Consistent with this restriction, Service market makers may only update their quotations in foreign/ADS issues twice daily, once between 8:30 and 9:30 a.m. E.T., and once between noon and 12:30 p.m. E.T.[3]

When the OTCBB Service was originally proposed in 1989, the inclusion of foreign/ADS issues triggered negative comment letters from the New York and American Stock Exchanges ("NYSE" and "AMEX", respectively). Essentially, the NYSE and AMEX argued that if such issues were included in the Service, they should no longer qualify for the exemption from Executive Act registration provided by Rule 12g3–2(b) because they would be quoted in an "automated inter-dealer quotation system."[4] Pursuant to paragraph (b)(3) of the rule, this exemption is not available for any foreign/ADS issue that becomes quoted on such a system. The NASD argued that "automated inter-dealer quotation system" was meant to cover the Nasdaq system, but not an electronic quotation medium such as the Service. Further, because inclusion of an unlisted security in the Service did not provide benefits equivalent to listing on Nasdaq, the NASD has maintained that the rule 12g3–2(b) exemption should be available for all foreign/ADS issues quoted in the Service. The NASD cited the following factors in support of its position: (i) The absence of a listing agreement between the NASD and any

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[1] Securities Exchange Act Release No. 27975 (May 1, 1990), 55 FR 19124.

[2] Securities Exchange Act Release No. 30531 (March 30, 1992), 57 FR 11625.

[3] As a consequence of this restriction, the Service carries only non-firm bid/ask prices or unpriced indications of interest in these securities. In contrast, priced bids/offers for domestic securities quoted in the Service must be firm for one unit of trading.

[4] Rule 12g3–2 does not define the term "automated inter-dealer quotation system." However, when rule 12g3–2 was amended to incorporate this language, the intent was to eliminate this exemption for prospective listings on the Nasdaq stock market.

issuer whose security is quoted in the Service; (ii) the fact that participating market makers, rather than issuers, determine whether an unlisted security will be quoted in the Service; (iii) the absence of any financial criteria to qualify an unlisted security for inclusion in the Service; (iv) the absence of affirmative market making obligations upon registered broker-dealers quoting unlisted securities in the Service as contrasted to requirements attendant to the quotation of securities listed or Nasdaq on an exchange market; and (v) the non-firm and essentially static character of quotations displayed in the Service respecting foreign/ADS issues.[5] In approving File No. SR–NASD–88–19 in 1990, the Commission acknowledged these factors and preliminary determined to allow the inclusion of foreign/ADS issues in the Service without relinquishing the rule 12g3–2(b) exemption.

The NASD asserts that these same factors remain valid bases for differentiating the status of a security quoted in the OTCBB Service from that of a security listed on an organized U.S. market. In particular, the update limitation and the non-firm character of market makers' quotations in foreign/ADS issues provide a far different market environment than that of the Nasdaq System. Accordingly, the NASD urges that the Commission, in connection with granting permanent approval, determine that the Service does not constitute an "automated inter-dealer quotation system", for purposes of rule 12g3–2 and that foreign/ADS issues included in the Service would remain eligible for the rule 12g3–2(b) exemption. Absent this finding, foreign/ADS issues will cease to be quoted in the Service and investors will be denied access to the limited quotation information now being disseminated through vendors' system for these securities. Removal of foreign/ADS issues from the Service also would deprive the NASD of quotation data that is used to supplement Schedule H price and volume information gather by the NASD for surveillance purposes.

The NASD believes that permanent approval of the Service is necessary to justify the resource allocations for certain system enhancement contemplated by section 17B of the Act. This provision, which was part of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Reform Act"), mandates establishment of an automated quotation system for "penny stocks" and certain other unlisted equity securities. The statute specifies creation of a system that would operate under the auspices of a self-regulatory organization and be capable of collecting and disseminating reliable quotation and transaction information for covered securities. The OTCBB Service substantially meets the statutory quotation requirements in its present form. Assuming permanent approval of the Service, the NASD staff will work closely with the Commission staff to fully conform the Service's operational capabilities to the requirements of Section 17B, particularly, the collection and dissemination of transaction information. Thus, permanent approval of the Service is integral to achieving the structured market system and regulatory envisioned by the Congress in adopting the Reform Act.

Finally, permanent approval of the OTCBB Service will materially aid small domestic companies that do not qualify to have their shares listed on Nasdaq. Such companies benefit from the Soviet because it provides a cost-effective vehicle for competing dealers to quote continuous markets in their equity securities. Further, vendor dissemination of market marker's quotations facilitates price discovery and efficient execution of investors' order for the shares of these small companies. Collectively, these factors increase the liquidity of secondary markets for the affected companies' shares and therefore service to lower the costs of capital raising. Moreover, the NASD's surveillance of trading activity in the Service offers a much greater degree of investor protection than that provided by any other quotation medium for unlisted securities. In sum, permanent approval of the Service would yield significant benefits to hundreds of small domestic companies and their shareholders.

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The NASD relies on sections 11A(a)(1), 15A(b) (6) and (11), and section 17B of the Act as the statutory basis for the instant rule change proposal. Section 11A(a)(1) sets forth the Congressional findings and policy goals respecting operational enhancements to the securities markets. Basically, the Congress found that new data processing and communications techniques should be applied to improve the efficiency of market operations, broaden the distribution of market information, and foster competition among market participants. Section 15A(b)(6) requires, *inter alia*, that the NASD's rules promote just and equitable principles of trade, facilitate securities transactions, and protect public investors. Subsection (11) thereunder authorizes the NASD to adopt rules governing the form and content of quotations for securities traded over-the-counter for the purposes of producing fair and informative quotations, preventing misleading quotations, and promoting orderly procedures for collecting and disseminating quotations. Finally, section 17B contains Congressional findings and directives respecting the collection and distribution of quotation information on low-priced equity securities that are neither Nasdaq nor exchange-listed.

The NASD submits that permanent approval of the Service is fully consistent with the foregoing provisions of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the instant proposal will not create any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Specifically, the Commission invites comment regarding its original determination, in the order approving a one-year pilot period for the Service, that the Service would not be considered an "automated interdealer quotation system" or an "electronic interdealer quotation system" so that the exemption from Exchange Act reporting provided by Rule 12g3–2(b)

[5] See letter from Frank J. Wilson, Executive Vice President and General Counsel, National Association of Securities Dealers, to Jonathan G. Katz, Secretary, SEC, dated March 9, 1989.

would be available to foreign companies with securities quoted on the Service."[6] In the approval order, the Commission stated that it would review its decision at the end of the one-year pilot period to determine whether its assumptions about how exempt foreign securities trade continue to hold true and, accordingly, whether to continue the foregoing Rule 12g3-2(b) treatment of foreign securities quoted on the Service. We encourage interested persons to comment on this, and any other matters pertinent to the Service.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by June 29, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12)

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13366 Filed 6-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30767; File No. SR-NYSE-92-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Publication of Market-on-Close Imbalances

June 2, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 19, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of procedures for publishing market-on-close ("MOC") imbalances of 50,000 shares or more in certain widely-held stocks, the so-called "pilot stocks",[1] on trading days other than expiration days, and, on any day, in stocks which are to be added to or dropped from an index after the close of trading on that day.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to facilitate dissemination of MOC imbalance information for pilot stocks on a daily basis and for stocks which are to be added to or dropped from an index after the close of trading on that day. The Exchange believes that publication of such information may help attract contra side interest and minimize potential price volatility at the close in the subject securities.

The proposed policy regarding the pilot stocks requires, for trading days other than expiration Fridays, the dissemination of order imbalances of 50,000 shares or more as soon as practicable after 3:45 p.m. for stocks that are currently identified as "expiration Friday pilot stocks".[3]

The proposed policy regarding stocks being added to or dropped from an index provides that, upon notification by the specialist in the subject security, the Exchange will publish on the tape, as soon as practicable after 3:45 p.m., any MOC imbalance of 50,000 shares or more in any stock which is to be added to or dropped from the S&P 500, S&P 100 or Major Market Index after the close of trading on that day. The policy further provides that, for a stock which after the close of trading is to be added to or dropped from an index other than one of the three major indexes previously listed, the specialist should notify a Floor Official if he notes an imbalance of 50,000 shares or more of MOC orders in such stock. The Floor Official will then determine whether to publish an imbalance of MOC orders greater than 50,000 shares in such stock on the tape.

The publication of imbalance information for such stocks does *not* preclude the subsequent entry or cancellation of MOC orders on either side of the market in such stocks.

2. Statutory Basis

The statutory basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such

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[6] *See Supra* note 1.

[1] The pilot stocks include the 50 highest-weighted Standard & Poors ("S&P") 500 Index stocks, based on market values, and any of the 20 Major Market Index ("MMI") stocks that are not already included as part of that group.

[2] The Commission notes that substantially similar procedures governing the dissemination of MOC imbalances have been utilized on quarterly expiration Fridays (*i.e.*, days when stock index futures, stock index options and options on stock index futures expire) since September, 1986, and on monthly expiration Fridays since November, 1988 on a pilot basis. See generally Securities Exchange Act Release No. 29871 (October 28, 1991), 56 FR 56434 (order granting accelerated approval to File No. SR-NYSE-91-31).

[3] See note 1, *supra*.

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-92-12 and should be submitted by June 29, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13357 Filed 6-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30763; File No. SR-OCC-92-11]

Self-Regulatory Organizations; The Options Clearing Corp.; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to Revisions to the Standards For Letters of Credit

June 1, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 22, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on a temporary basis through August 31, 1992.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the Commission's previous temporary approval of OCC's modifications to its rules respecting letters of credit deposited with OCC as a form of margin.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 16, 1991, OCC filed with the Commission a proposed rule change (File No. SR-OCC-91-13) which proposed to modify the standards for letters of credit used as a form or margin. On august 30, 1991, the Commission issued an order granting accelerated approval of the proposed rule change on a temporary basis through February 28, 1992.[2] Subsequently, on February 6, 1992, OCC filed with the Commission a proposed rule change (File No. SR-OCC-92-06) which requested that the Commission make permanent the Commission's temporary approval of the letter of credit filing. On February 28, 1992, the Commission granted accelerated approval of that filing on a temporary basis through May 31, 1992.[3]

This filing (File No. SR-OCC-92-11) once again proposes to make permanent the Commission's temporary approval of OCC's modification's to its rules respecting the standards for letters of credit deposited with OCC as a form of margin. Like the previous filings, this filing proposes to modify the rules respecting letters of credit in several ways. First, in order to conform to the Uniform Commercial Code and to avoid any ambiguity as to the latest time for honoring demands upon letters of credit, letters or credit must state expressly that payment must be made prior to the close of business on the third banking day following demand. Second, letters of credit must be irrevocable. Third, letters of credit must expire on a quarterly basis. Fourth, OCC included language in its rules to make explicit its authority to draw upon letters of credit at any time, whether or not the Clearing Member that deposited the letter of credit has been suspended or is in default, if OCC determines that such a draw is advisable to protect OCC, other Clearing Members, or the general public.[4]

In the interim since its original letter of credit filing, OCC has received no complaints from any of its Clearing Members, banks issuing such letters of credit, or other interested parties with respect to the implementation of the revised letter of credit standards. Accordingly, OCC requests that the Commission grant permanent approval of the revisions to its rules respecting letters of credit deposited as margin.

OCC believes the proposed rule change is consistent with the requirements of section 17A of the Act. Specifically, OCC believes the proposed rule change promotes the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its possession or subject to its control.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change, and none were received.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 29641 (August 30, 1991), 56 FR 46027.

[3] Securities Exchange Act Release No. 30424 (February 28, 1992), 57 FR 8160.

[4] For detailed discussion of the modifications of OCC's rules governing letters of credit deposited as margin, refer to Securities Exchange Act Release No. 29641, *supra* note 2.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that the proposal is consistent with section 17A of the Act and specifically with section 17A(b)(3)(F) of the Act.[5] That section requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which the clearing agency is responsible. The revised standards should make such letters of credit more liquid instruments and, consequently, should permit OCC to more safely rely upon letters of credit as deposited margin. Because the revised standards will induce letter of credit issuers to reexamine Clearing Members' financial conditions every three months rather than annually, as under the prior standards, the financial condition of Clearing Members electing to deposit letters of credit as margin may be assessed more frequently thereby facilitating the discovery of any adverse developments in a more timely manner. In addition, since the letters of credit will be irrevocable, issuers of letters of credit will no longer be able to revoke letters of credit at times when the Clearing Members most need credit facilities (*e.g.*, when a Clearing Member is experiencing financial difficulties or during times of market volatility). By approving the proposed rule change on a temporary basis through August 31, 1992, OCC, the Commission, and other interested parties will be able to assess further, prior to permanent Commission approval, any effects these revised standards have on letter of credit issuance and on margin deposited at OCC.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving because the Commission believes it desirable that the proposed rule change be approved before the expiration of the Commission's previous order that temporarily approved these changes to the standards for letters of credit deposited as margin with OCC. By approving this proposed rule filing before expiration of the prior temporary approval order, the changes that have been implemented pursuant to the temporary approval order may remain in place pending permanent approval.

[5] 15 U.S.C. 78q-1(b)(3)(F) (1988).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File Number SR-OCC-92-11 and should be submitted by June 29, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and in particular with section 17A of the Act.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR-OCC-92-11) be, and hereby is, approved temporarily through August 31, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13362 Filed 6-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30759; File No. SR-OCC-92-10]

Self-Regulatory Organizations; The Options Clearing Corp. ("OCC"); Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OCC to Conform the Restated Certificate of Incorporation to OCC's By-Laws

May 29, 1992.

Pursuant to Section 91(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 24, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend certain language in OCC's Restated Certificate of Incorporation ("Certificate") to conform the Certificate to the language of OCC's By-Laws

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Purpose of the proposed rule change is to conform OCC's Certificate to changes that were made in OCC's By-Laws in Filing No. SR-OCC-92-2. Filing No. SR-OCC-92-2 was approved by the Commission on March 6, 1992.[1] However, at or about the time of Commission approval, OCC discovered that it needed to make a technical change to the Certificate. In Filing No. SR-OCC-92-2, OCC amended the By-Laws to reflect that the current number of Exchange Directors is six, not seven. However, a similar change was not made to the Certificate at that time. This proposed rule filing would rectify that inconsistency by changing the language in the Certificate to likewise reflect that the current number of Exchange Directors is six and not seven.

The proposed rule change is consistent with the requirements of section 17A of the Act. Specifically, the

[1] Securities Exchange Act Release No. 30449 (March 6, 1992), 57 FR 8949.

proposal would fulfill the clearing organization's obligation to provide clear and consistent rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

OCC has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder because it is concerned solely with the administration of the self-regulatory organization. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed change that are filed with the Commission, and written communications relating to the proposal between the Commission and any persons, other than those that may be withheld from the public in accordance with 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–92–10 and should be submitted by June 29, 1992.

For the Commission by the Division of Market Regulation, Pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13364 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30761; File No. SR–OCC–92–15]

Self-Regulatory Organizations; The Options Clearing Corp.; Notice of Filing and Order Granting Approval, on an Accelerated Basis, of a Proposed Rule Change Regarding the Theoretical Intermarket Margin System for Equity Options

May 29, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 21, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will extend one year the Commission's temporary approval of OCC's Theoretical Intermarket Margin System ("TIMS"), which OCC currently uses to calculate margin for equity options.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[2] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 28928 (March 1, 1991), 56 FR 9995 [File No. SR–OCC–89–12] (Order approving the use of TIMS methodology to calculate margin on equity options).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 3, 1989, OCC submitted a proposed rule change to the Commission which would implement a new margin system for calculating Clearing Member margin requirements on equity options ("Equity TIMS"), and make other conforming, technical changes to accommodate the use of Equity TIMS. Equity TIMS utilizes options price theory (*i.e.*, an option pricing model) to: (1) Project the cost of liquidating a Clearing Member's equity options positions, taking into consideration (a) short options positions, and (b) all long positions over which OCC is entitled to assert a lien, in the event of a "worst case" theoretical change in the price of the underlying securities; and (2) set Clearing Member margin requirements to cover that cost.[3]

On March 1, 1991, the Commission temporarily approved OCC's use of Equity TIMS through May 31, 1992.[4] For the past year, OCC has used Equity TIMS to calculate Clearing Member's margin requirements on equity option positions. OCC believes that the use of Equity TIMS has resulted in a better assessment of its risk exposure than was possible under the previous margin system. Moreover, OCC has received no adverse comments or complaints from its Clearing Members regarding Equity TIMS.

OCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act.[5] Specifically, OCC believes that Equity TIMS in consistent with section 17A(b)(3) (A) and (F) of the Act [6] in that it enhances OCC's operating efficiency and its ability to safeguard the securities and funds for which it is responsible. Accordingly, OCC requests that the Commission extend, until May 31, 1993, its temporary approval of Equity TIMS to give OCC additional time to complete its report regarding equity option volatility.[7]

[3] See *id.* for a more complete description of the Equity TIMS methodology.

[4] *Id.* In connection with the temporary approval order, OCC represented that it would (1) undertake to analyze the efficacy of including equity option volatility over longer periods in determining its margin intervals, and (2) report the results of its analysis to the Commission's staff.

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[7] See *supra*, note 4. OCC has asked that the Commission extend the report's submission date to December 31, 1992.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC has not solicited comments with respect to the proposed rule change and no comments have been received. Notice of the proposed rule change was published in the **Federal Register** in connection with the previous temporary approval of Equity TIMS.[8] OCC will notify the Commission of written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission preliminarily believes that the proposal meets the requirements of the Act and, in particular, the requirements of section 17A of the Act.[9] Specifically, section 17A(b)(3) (A) and (F) of the Act [10] require that a clearing agency be so organized and that its rules be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which the clearing agency is responsible; to facilitate the prompt and accurate clearance and settlement of securities transactions; and to protect investors and the public interest.

Equity TIMS represents an improvement over OCC's previous "production" margin system in several respects. Nevertheless, the Commission remains concerned about the potential lack of diversification of equity option holdings within clearing members' individual portfolios on which credit is being granted. Moreover, while the Commission believes that the margin methodology employed by Equity TIMS is basically sound, the Commission is concerned that the system may be overly dependent on short-term analyses of historical and implied volatility. Such analyses must provide the basis for any clearing corporation margin system, but its limitations also must be recognized. Accordingly, the Commission continues to believe that it would be beneficial for OCC to collect additional margin to cover the financial shocks caused by sudden, drastic price movements. Specifically, while OCC monitors the volatility of the markets in an effort to anticipate such movements, the Commission believes OCC should explore ways to ensure that its margin levels are not substantially reduced as a result of a decrease in short-term (three-to-twelve months) average volatility.[11]

OCC represented, in connection with the previous Equity TIMS temporary approval order of March 1, 1991, that it would undertake to include price volatility data for equity options over longer terms in determining its margin intervals and that it would report by April 30, 1992, concerning how such a procedure could best be effected. OCC, however, has requested more time to complete this report and has undertaken to deliver such report to the Commission's staff by December 31, 1992. The Commission believes that by extending the temporary period through May 31, 1993, it will be providing sufficient time: (1) For OCC to prepare and submit the report, and (2) for the Commission to analyze the report before determining whether to grant permanent approval.

OCC has requested that the Commission find good cause for approving its request for an extension of the Commission's temporary rule change. Failure to extend the temporary approval period would require OCC to stop using Equity TIMS and to revert back to the previous margin system to calculate margin for equity options. The Commission believes that Equity TIMS is an improvement over the previous margin system and that it would be consistent with Section 17A of the Act to approve the proposed temporary extension of Equity TIMS prior to the expiration of the existing temporary approval period. Thus, the Commission believes that good cause exists for approving the proposed rule change prior to the thirtieth day after notice of the proposal in the **Federal Register.**

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-92-15 and should be submitted by June 29, 1992.

V. Conclusion

On the basis of the foregoing, the Commission preliminary finds that OCC's proposed rule change is consistent with the Act, in particular, with section 17A of the Act, and the Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication.

It is therefore Ordered, Pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR-OCC-92-15) be, and hereby, is approved on a temporary basis through May 31, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 92-13365 Filed 6-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30758; File No. SR-PTC-92-03]

Self-Regulatory Organizations; Participants Trust Co.; Order Approving a Proposed Rule Change Relating to New Procedures for Financing Transactions Through the Collateral Loan Facility

May 29, 1992.

On March 20, 1992, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission"□ a proposed rule change (SR-PTC-92-03) pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b). The purpose of the proposed rule change is to adopt a new procedure to provide for the bulk transfer of securities underlying a repurchase agreement through PTC's collateral loan facility ("CLF"). Notice of

[8] Securities Exchange Act Release No. 27394 (October 26, 1989), 54 FR 46175 [File No. SR-OCC-89-12] (Original notice of filing for the Equity TIMS proposal).

[9] 15 U.S.C. 78q-1 (1988).

[10] 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

[11] The Commission's staff has found that the number of severe price swings in the marketplace has increased dramatically in recent years. *See* Division of Market Regulation, Market Analysis of October 13 and 16, 1989, at 162-163 (December 1990).

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30-3(a0(12) (1991).

the proposed rule change appeared in the Federal Register on April 28, 1992 to solicit comments from interested persons.[1] This order approves the proposed rule change.

I. Description of the Proposed Rule Change

PTC is adding a new CLF procedure, Procedure IA, to provide for bulk transfers of the entire interest of securities rather than processing GNMA pools underlying a repurchase agreement ("repo") on an individual pool-by-pool basis. a delivering participant will make the transfer by effecting a bulk financing transfer ("BFT") of those securities.[2] The BFT designation by the delivering participant and the acceptance of a BFT by a receiving participant would constitute a representation by both parties that the transfer reflects a financing transaction. Use of this BFT code will have the legal effect of transferring the entire interest in the securities, not a limited interest.

The proposed rule change will enable PTC to process bulk transfers of GNMA pools underlying a repo. PTC's rules, however, will not characterize transactions as either a "pledge" or a "repo" so a participant may use this procedure to effect a pledge or a repo.[3] The underlying agreements between the parties to the transaction will govern the nature of the transaction. Currently, PTC rules do not allow the bulk transfer of securities involving a repo transaction and require that the transfer of securities involving a repo transaction be done by individual pool-by-pool book-entry movements. PTC, however, does allow the bulk transfer of securities involving pledges through CLF. Thus, PTC is characterizing the BFT transfer as a transfer of the entire interest, as opposed to a limited or a security interest, to allow participants to make bulk transfers of securities involving repos.

Under the proposal, PTC will assume that the agreement underlying the transaction provides for the delivering participant to receive principal and interest ("P&I") payments.[4] As with any CLF movement, however, the participant receiving a BFT may exercise the securities access command ("SAC") which gives the receiving participant (or successive trnasferees) full control of the securities, including the right to all future credits of P&I and the right to withdraw or retransfer the securities to another account (either free or versus payment).[5]

II. Discussion

The Commission believes that PTC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F) of the Act.[6] Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the proposed rule change is consistent with these requirements.

Repos are used regularly by government securities dealers to finance their short-term financing or investment needs. PTC participants, many of which are government securities dealers, routinely use PTC's facilities to effect repo transactions to meet their end of day settlement obligations. The proposed rule change will provide participants a more efficient mechanism to effect those repos transactions.

Currently, participants executing a repo must do so by transferring the securities through pool-by-pool book entry movements which is a costly and time-consuming process. Revisions to the CLF procedure will allow PTC participants to transfer, by book-entry delivery, the entire interest of the securities to a repo purchaser or a lender. Thus, the procedure will provide participants an efficient method to effect their short-term financing regardless of whether the transaction is characterized as a pledge or a repo.

PTC's proposal does not govern the nature of the transaction, but relies on underlying agreements between the parties to the transaction to govern the actual interest of the various parties in the BFT securities.[7] The agreements between the delivering and receiving participants will govern the rights of the delivering participant. Moreover, PTC's proposal will provide the facilities through which participants may effect deliveries of securities in bulk for financing or repo transactions and either retain P&I payments or redirect those P&I payments to the receiver. Thus, the Commission believes that the proposal will facilitate the prompt and accurate clearance and settlement of repo transactions and the safeguarding of government securities and funds under PTC's control or for which it is responsible as required under section 17A of the Act.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR–PTC–92–03) be, and hereby is, approved.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13367 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18739; 812–7862]

AEGON USA Managed Portfolios, Inc. et al.; Notice of Application

May 29, 1992

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: AEGON USA Managed Portfolios, Inc. ("AEGON Fund"), IDEX

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[1] Securities Exchange Act Release No. 30605 (April 20, 1992), 57 FR 17936.

[2] In a BFT, although the pledgee accounts are used, participants delivering or receiving securities are not referred to as pledgor or pledgee participants, but rather as delivering or receiving participants.

[3] Although the BFT designation may be used for transactions involving the pledge of securities, participants can use the regular CLF command to transfer a limited interest in securities in bulk. PTC's proposal is designed to accommodate participants that need to make a bulk transfer of securities to effect repo transactions or transactions involving both repo and pledge agreements.

[4] See "Form of PSA Master Repurchase Agreement," Public Securities Association ("PSA") Government Securities Manual, Chapter 11, Exhibit A.

[5] PTC will use its repo accounting facility to account for BFT transactions/ Under a BFT, a receiving participant would, by exercising the SAC, acquire the attributes of possession of the securities with the corresponding ability to retransfer them in a repo secondary transaction. The procedures for closing out a repo accounting record also allow the repo buyer to request a closeout upon representation to PTC that its obligation to resell is terminated. Securities Exchange Act Release No. 29617 (August 27, 1991), 56 FR 43827.

[6] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[7] Under applicable law, if the receiving party is a PTC participant, the delivery is complete when PTC records the delivery on its books. U.C.C. 8–313(1)(q) and 8–320. If the purchaser/lender is not a direct participant, the transaction is complete as a legal matter after (i) PTC's books reflect the delivery; (ii) PTC's participant's books reflect the delivery for the account of its customer; and (iii) a confirmation is delivered to the ultimate purchaser or lender. U.C.C 8–313(1) (d) and (g) and 8–320.

II Series Fund ("IDEX II Fund"), MidAmerica Management Corporation ("MidAmerica"), InterSecurities, Inc. ("ISI"), Idex Management, Inc. ("IMI"), and AEGON USA, Inc. ("AEGON USA").

RELEVANT ACT SECTIONS: Order requested under (a) section 17(b) of the Act granting an exemption from section 17(a) of the Act and (b) section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order under section 17(b) for an exemption from section 17(a) and an order under section 17(d) and rule 17d–1 thereunder to permit each portfolio of the IDEX II Fund to acquire substantially all of the assets of corresponding portfolios of the AEGON Fund in exchange for shares of the applicable portfolio of the IDEX II Fund.

FILING DATE: The application was filed on February 5, 1992, and amended on May 21, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, pesonally or by mail. Hearing requests should be received by the SEC by 5:30 on June 23, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NE., Washington, DC 20549. Applicants: AEGON Fund, MidAmerica, and AEGON USA, 4333 Edgewood Road, NW., Cedar Rapids, Iowa 52499; IDEX II Fund, ISI, and IMI, 201 Highland Avenue, Largo, Florida 34640.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272–3922 or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The AEGON Fund and the IDEX II Fund are open-end management investment companies organized in Maryland and Massachusetts, respectively, and registered under the Act. The AEGON Fund and the IDEX II Fund are sometimes referred to herein as the "Funds."

2. Subject to and contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding common stock of each portfolio of the AEGON Fund, (each an "AEGON Portfolio"), each portfolio of the IDEX II Fund (each an IDEX II Portfolio") proposes to acquire all of the assets, subject to liabilities, of a corresponding AEGON Portfolio, in exchange for shares of beneficial interest of each IDEX II Portfolio, such shares then to be distributed *pro rata* to shareholders of the corresponding AEGON Portfolio. The IDEX II Portfolios and the AEGON Portfolios may be referred to herein as the "Portfolios."

3. The AEGON Fund is comprised of the following four series: the AEGON USA Tax-Exempt Portfolio ("AEGON Tax-Exempt Portfolio"); the AEGON USA High Yield Portfolio ("AEGON High Yield Portfolio"); the AEGON USA Capital Appreciation Portfolio ("AEGON Capital Appreciation Portfolio"); and the AEGON USA Growth Portfolio ("AEGON Growth Portfolio") (collectively, "AEGON Portfolios"). The AEGON Tax-Exempt Portfolio and the AEGON High Yield Portfolio are sometimes collectively referred to herein as the "AEGON Bond Portfolios;" the AEGON Capital Appreciation Portfolio and the AEGON Growth Portfolio are sometimes collectively referred to herein as the "AEGON Equity Portfolios."

4. The IDEX II Fund consists of the following three series: The IDEX II Tax-Exempt Portfolio; the IDEX II High Yield Portfolio; and the IDEX II Growth Portfolio (collectively, "IDEX II Portfolios"). The IDEX II Tax-Exempt Portfolio and the IDEX II High Yield Portfolio are sometimes collectively referred to herein as the "IDEX II Bond Portfolios." The IDEX II Bond Portfolios have not issued any of their respective shares and therefore have no operating history. The IDEX II Fund filed a post-effective amendment to its Registration Statement to register the IDEX II Bond Portfolios and their shares, which became effective on May 8, 1992. The IDEX II Bond Portfolios intend to commence offering shares to the public on or about the closing date of the proposed reorganizations. The IDEX II Fund has established a fourth series, the IDEX II Global Portfolio, which is not involved in the proposed reorganizations.

5. Pursuant to the proposed reorganizations, the AEGON Tax-Exempt Portfolio will be reorganized with and into the IDEX II Tax-Exempt Portfolio, the AEGON High Yield Portfolio will be reorganized with and into the IDEX II High Yield Portfolio, and each AEGON Equity Portfolio will be reorganized with and into the IDEX II Growth Portfolio.

6. MidAmerica is the investment adviser to each AEGON Portfolio. ISI serves as the investment adviser to each IDEX II Bond Portfolio. It is anticipated that MidAmerica will serve as the sub-adviser to each IDEX II Bond Portfolio on an interim basis until AEGON USA Investment Management, Inc. ("AEGON Management"), which owns 100% of the outstanding stock of MidAmerica, is prepared to serve as the sub-adviser. IMI is the investment adviser to the IDEX II Growth Portfolio. MidAmerica, AEGON Management, ISI, and IMI are sometimes collectively referred to herein as the "Investment Advisers."

7. MidAmerica, AEGON Management, and ISI are each directly or indirectly wholly-owned subsidiaries of AEGON USA. AEGON USA also indirectly owns 50% of the outstanding stock of IMI, the balance of which is owned by Janus Capital Corporation ("Janus") the sub-adviser to the IDEX II Growth Portfolio. AEGON USA also indirectly owns 100% of PFL Life Insurance Company ("PFL Life"), AUSA Life Insurance Company ("AUSA Life"), and Bankers United Life Assurance Company ("Bankers Life"). Subsidiaries of AEGON USA are the record owners of shares of certain AEGON Portfolios.

8. For its services as the investment adviser to the AEGON Fund, MidAmerica currently receives investment advisory fees payable at the rate of 0.60% of the average daily net assets of each AEGON Bond Portfolio, and 0.50% of the average daily net assets of each AEGON Equity Portfolio. In addition, in accordance with a plan of distribution adopted pursuant to rule 12b–1 under the Act, each AEGON Portfolio may pay MidAmerica, as principal underwriter, an annual distribution fee of up to 0.35% of the Portfolio's average daily net assets.

9. As the investment adviser to each IDEX II Bond Portfolio, ISI receives investment advisory fees payable at the annual rate of 0.60% of the Portfolio's average daily net assets. As the sub-adviser to each IDEX II Bond Portfolio, MidAmerica, and thereafter AEGON Management, would receive from ISI 50% of the net advisory fees received by ISI. In addition, in accordance with a proposed plan of distribution pursuant to rule 12b–1 under the Act that would be substantially the same as that currently in effect for each AEGON

Bond Portfolio, and which remains subject to shareholder approval, each IDEX II Bond Portfolio is authorized to pay ISI, as the principal underwriter, an annual distribution fee of up to 0.35% of the Portfolio's average daily net assets.

10. For its services as investment adviser, IMI receives an annual fee of 1% of the IDEX II Growth Portfolio's average daily net assets. For its services as sub-adviser, Janus receives from IMI 50% of the net fees received by IMI. In addition, for its services as the administrator to the IDEX II Growth Portfolio, ISI receives from IMI 50% of the net fees received by IMI. Moreover, ISI, as the principal underwriter for the shares of the IDEX II Growth Portfolio, may receive an annual distribution fee of up to 0.25% of the IDEX II Growth Portfolio's average daily net assets in accordance with the IDEX II Growth Portfolio's plan of distribution adopted pursuant to rule 12b–1 under the Act, which became effective on May 1, 1991.

11. In connection with the proposed reorganizations, the corresponding Portfolios of the Funds have each entered into a separate Agreement and Plan of Reorganization and Liquidation ("Reorganization Agreement") that was unanimously approved by the Board of Directors of the AEGON Fund ("AEGON Board"), including the disinterested directors thereof, on December 20, 1991, and by the Board of Trustees of the IDEX II Fund ("IDEX II Board"), including the independent trustees thereof, on January 2, 1992. The AEGON Board and the IDEX II Board have no common members. Each Board based its decision to approve the reorganizations on a number of factors, including: (1) The relative past growth in assets and investment performance of the AEGON Portfolios and the IDEX II Growth Portfolio; (2) the future prospects of the Portfolios, both under circumstances where they are not reorganized and if the reorganizations are effected; (3) the compatibility of the investment objectives, policies and restrictions of the respective AEGON Portfolios and the corresponding IDEX II Portfolios; (4) the effect of the reorganizations on the expense ratios of each Portfolio of the Funds based on a comparison of the expense ratios of the existing Portfolios with those of the IDEX II Portfolios on a "pro forma" basis; (5) the costs of the reorganizations to the Funds; (6) whether any future cost savings could be achieved by combining the AEGON Equity Portfolios with the IDEX II Growth Portfolio; (7) the tax-free nature of the reorganizations; (8) alternatives to the reorganizations; and (9) the actual and potential benefits to the Funds' affiliates, including their respective Investment Advisers and their parent, AEGON USA.

12. Each Reorganization Agreement will be submitted for approval by the shareholders of the affected AEGON Portfolios at a joint meeting of AEGON Fund shareholders tentatively scheduled to be held on July 15, 1992. A prospectus/proxy statement comparing the two Funds and describing the proposed reorganizations and the reasons therefore will be sent to the shareholders of each Aegon Portfolio on or about June 10, 1992. The prospectus/proxy statement of the IDEX II Fund on Form N–14 (File No. 33–47325) was filed with the Commission on April 20, 1992 and became effective on May 20, 1992. Assuming that the required shareholder votes are obtained at the shareholders meetings, the closing of the reorganizations is expected to occur shortly thereafter.

13. Pursuant to each Reorganization Agreement, the number of shares of the IDEX II Portfolio to be issued to the corresponding AEGON Portfolio will be determined on the basis of net asset values, by dividing the net asset value of each AEGON Portfolio's assets and liabilities by the net asset value of a share of the corresponding IDEX II Portfolio. As soon as practicable after the closing date, the AEGON Portfolio will liquidate and distribute *pro rata* to its shareholders of record the shares of the corresponding IDEX II Portfolio received by the AEGON Portfolio pursuant to the reorganization. Shareholders of record will be determined as of the close of business on the closing date. After such distribution and the winding up of its affairs, each AEGON Portfolio, and the AEGON Fund, will be dissolved.

14. Although each Reorganization Agreement provides that any of its provisions may be waived, amended, modified or supplemented by mutual written agreement of the parties, with respect to each Reorganization Agreement, applicants agree not to make any material changes to the Reorganization Agreement after the entry of any order granting exemptive relief that affect the order without prior approval of the SEC staff.

15. All of the direct expenses of the reorganizations, including professional fees and the cost of soliciting proxies for the meetings of each AEGON Portfolio's shareholders, will be borne by one or more of the Investment Advisers.

Applicants' Legal Analysis

1. The AEGON Fund and the IDEX II Fund have investment advisers that are under "common control" within the meaning of section 2(a)(9) of the Act. In addition, the AEGON Fund is an "affiliated person" of AEGON USA within the meaning of section 2(a)(3)(B) of the Act because AEGON USA, through its subsidiaries, owns 5% or more of the shares of certain AEGON Portfolios. Because of these relationships, the proposed reorganizations may be prohibited by section 17(a) of the Act. Section 17(a) generally prohibits the sale of securities or property to a registered investment company by an affiliated person of an affiliated person of such company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. The proposed reorganizations would be exempt from the provisions of section 17(a) by virtue of rule 17a–8 but for the fact that AEGON USA, through its subsidiaries, beneficially owns 5% or more of the outstanding shares of certain AEGON Portfolios and wholly owns the investment advisers for both Funds. Although the nature of the affiliations precludes applicants from relying on the exemption rule 17a–8 affords, applicants represent that the respective Boards, including the respective disinterested trustees and directors, have made the findings required by rule 17a–8.

3. Section 17(b) of the Act provides that, notwithstanding section 17(a), any person may file an application for an order exempting a proposed transaction and the SEC shall grant such order if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

4. After considering the relevant factors concerning the advisability of each proposed reorganization, each Board found that participation in each reorganization as contemplated in each respective agreement was in the best interests of the relevant portfolio and that the interests of the existing shareholders of each portfolio would not be diluted as a result of the reorganization. In addition, each Board determined that the terms of each

reorganization and the consideration to be paid or received are fair and reasonable and do not involve overreaching by any person. Applicants assert that the proposed reorganizations will be consistent with the policies of each Portfolio, and are consistent with the general purposes of the Act.

5. Section 17(d) of the Act prohibits any affiliated person of, or principal underwriter for, a registered investment company, or any affiliated person of such a person, acting as principal from effecting any transaction in which such registered company is a joint, or joint and several, participant with such person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such registered company on a basis different from, or less advantageous than, that of such other participant. Rule 17d–1 under the Act provides that no joint transaction covered by the rule may be consummated unless the Commission grants an exemptive application after considering whether the participation of the investment company is consistent with the provisions, policies and purposes of the Act and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

6. Because PFL Life, AUSA Life, Bankers Life, and MidAmerica, individually or in the aggregate, own of record 5% or more of the outstanding shares of certain of the AEGON Portfolios, and because AEGON USA may be deemed to control the investment advisers for both Funds, the Funds may be considered affiliated persons or affiliated persons of affiliated persons of each other. The proposed sale of assets by each AEGON Portfolio to the corresponding IDEX II Portfolio and the related transactions involved in each reorganization might therefore be deemed to be a joint enterprise or arrangement prohibited by section 17(d) and rule 17d–1.

7. Applicants submit that the terms of the proposed transactions are consistent with the provisions, policies, and purposes of the Act in that they are reasonable and fair to all parties, do not involve overreaching, and are consistent with the investment policies of each of the Portfolios. Applicants also submit that the participation in the reorganizations by each Portfolio is not on a basis different from or less advantageous than that of other participants.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13358 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18738; 812–7881]

Hartford Life & Accident Insurance Co., et al.; Application

May 29, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Hartford Life & Accident Insurance Company ("HL&A"), Hartford Life & Accident Insurance Company/ Separate Account One (the "Separate Account") and Hartford Equity Sales Company, Inc. ("HESCO").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act for exemption from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the Separate Account under certain deferred variable annuity contracts.

FILING DATE: The Application was filed on February 25, 1992 and amended on April 28, 1992 and May 27, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 23, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Kathleen A. McGah, Counsel, Hartford Life Insurance Company, 200 Hopmeadow Street, Simsbury, CT 06089.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, at (202) 272–3046, or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. HL&A is a stock life insurance company licensed to do business in all states except New York and the District of Columbia. HL&A is a wholly owned subsidiary of the Hartford Fire Insurance Company. In turn, the Hartford Fire Insurance Company is a subsidiary of the ITT Corporation.

2. The Separate Account is registered under the 1940 Act as a unit investment trust. The Separate Account will issue only individual and group flexible premium deferred variable annuity contracts (the "Contracts"). Under the Contracts, Contract owners have the right to allocate purchase payments to any one or more of the underlying mutual funds. HESCO, a registered broker-dealer, is the principal underwriter of the Contracts funded through the Separate Account.

3. No sales charges are deducted from premium payments when made. However, a contingent deferred sales charge may be assessed against Contract values when they are surrendered. The charge, a percentage of the amount withdrawn (not to exceed the aggregate amount of purchase payments made), declines from 7% for withdrawals made during the first contract year of 0% for withdrawals or surrenders made after the seventh contract year. Purchase payments are deemed to be surrendered in the order in which they are received and all surrenders are first taken from purchase payments and then from other Contract values.

4. An annual maintenance fee of $25 is deducted from Contract values each Contract year. Applicants represent that the annual maintenance fee will not be more than the actual cost of the administrative services provided.

5. HL&A will deduct on a daily basis a 1.25% annual charge from the assets of the Separate Account to reimburse HL&A for assuming mortality and expense risks under the Contracts. Of that charge, .90% is attributable to mortality expense risk while a .35% is attributable to expense risk. HL&A assumes a mortality risk under the Contract by undertaking to make annuity payments to Contract owners regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live.

HL&A also assumes a mortality risk by promising to pay a minimum death benefit under the Contract. Under the Contract, where either the annuitant or Contract owner dies before the Annuity Commencement Date and has not yet attained the age of 85, the beneficiary of the Contract will receive the greater of (a) the Contract value determined as of the day written proof of death of such person is received by HL&A, or (b) 100% of the total purchase payments made under the Contract, reduced by any prior surrenders, or (c) the Contract value on the specified Contract anniversary immediately preceding the date of death, increased by the dollar amount of any purchase payments made and reduced by the dollar amount of any partial terminations since the immediately preceding specified Contract anniversary. HL&A also assumes the risk that actual expenses associated with administering the Contracts may exceed the administrative charge under the Contracts.

If the mortality and expense risk charge proves more than sufficient to meet actual costs, the excess will be added to the surplus of HL&A and can be used by HL&A for any business purpose. HL&A expects a reasonable profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission enter an Order exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction of the mortality and expense risk charge assessed under the Contracts from the assets of the Separate Account.

2. Applicants represent that the mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts. Applicants make this representation based upon a review of (i) current charge levels; (ii) minimum death benefit guarantees; (iii) guaranteed annuity purchase rates; (iv) accounting systems for separage account unit value administration; and (v) the markets in which the contracts are offered. HL&A undertakes to maintain at its home office and make available to the Commission upon request a memorandum setting forth in detail the methodology underlying this representation and the contracts analyzed.

3. Applicants state that there is a likelihood that the proceeds from explicit sales load will be insufficient to cover the expected costs of distributing the contracts and, therefore, they have concluded that there is a reasonable likelihood that the Separate Account's distribution financing agreement will benefit the Separate Account and Contract owners. HL&A undertakes to maintain at its home office and make available to the Commission upon request a memorandum setting forth the basis for this representation.

4. Applicants represent that the Separate Account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company within the meaning of section 2(a)(19) of the 1940 Act, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts meet the standards in section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13359 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18737; 812–7886]

Hartford Life & Accident Insurance Co. et al.; Application

May 29, 1992

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Hartford Life & Accident Insurance Company ("HL&A"), Hartford Life & Accident Insurance Company/ Putnam Capital Manager Separate Account One (the "Separate Account") and Hartford Equities Sales Company, Inc. ("HESCO").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act for exemption from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk change from the assets of the Separate Account under certain deferred variable annuity contracts.

FILING DATE: The Application was filed on March 6, 1992 and amended on April 28, 1992 and May 27, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 23, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Kathleen A. McGah, Counsel, Hartford Life Insurance Company, 200 Hopemeadow Street, Simsbury, CT 06089.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Attorney, at (202) 272–2058, or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. HL&A is a stock life insurance company licensed to do business in all states except New York and the District of Columbia. HL&A is a wholly owned subsidiary of the Hartford Fire Insurance Company. In turn, the Hartford Fire Insurance Company is a subsidiary of the ITT Corporation.

2. The Separate Account is registered under the 1940 Act as a unit investment trust. The Separate Account issues only individual and group flexible premium tax deferred variable annuity contracts (the "Contracts"). Under the Contracts, Contract Owners have the right to allocate purchase payments to any one or more of the underlying mutual funds. HESCO, a registered broker-dealer, is the principal underwriter of the

Contracts funded through the Separate Account.

3. A declining contingent deferred sales charge may be assessed against contract values when they are surrendered. The sales charge declines from 7% for withdrawals made during the first contract year to 0% for withdrawals or surrenders made after the seventh contract year. Purchase payments are deemed to be surrendered in the order in which they are received and all surrenders are first taken from purchase payments and then from other Contract values. No sales charges are deducted from premium payments when made.

4. Contract Owners may make partial surrenders each year up to 10% of the aggregate premium payments made under the Contract without the application of the contingent deferred sales charge.

5. A Maintenance Fee of $25 is deducted each Contract Year from Contract values. Applicants represent that the annual maintenance fee will not be more than the actual cost of the services provided. HL&A also deducts an administrative fee of .15% per annum against all contract values during the accumulation and annuity phases of the Contract. This charge is guaranteed for the life of the Contract and will not exceed the average expected cost of the services during the life of the Contract.

6. HL&A will deduct on a daily basis a 1.25% annual charge from the assets of the Separate Account to reimburse HL&A for providing mortality and expense guarantees under the Contracts. Of that charge, .90% is attributable to mortality risk while .35% is attributable to expense risk. HL&A assumes a mortality risk under the Contracts by undertaking to make annuity payments to Contract Owners regardless of how long an Annuitant may live, and regardless of how long all Annuitants as a group may live.

HL&A also assumes a mortality risk by promising to pay a minimum death benefit under the Contract. Under the Contract, where either the Annuitant or Contract Owner dies before the Annuity Commencement Date and has not yet attained the age of 85, the Beneficiary of the Contract will receive the greater of (a) the Contract Value determined as of the day written proof of death of such person is received by HL&A, or (b) 100% of the total purchase payments made under the Contract, reduced by any prior surrenders, or (c) the Contract Value on the Specified Contract Anniversary immediately preceding the date of death, increased by the dollar amount of any purchase payments made and reduced by the dollar amount of any partial terminations since the immediately preceding Specified Contract Anniversary. HL&A also assumes the risk that actual expenses associated with administering the Contracts may exceed the administrative charges under the Contracts.

If the mortality and expense risk charge proves more than sufficient to meet actual costs, the excess will be added to the surplus of HL&A and can be used by HL&A for any business purpose. HL&A expects a reasonable profit from the mortality and expense risk charge.

Applicant's Legal Analysis and Conditions

1. Applicants request that the Commission enter an Order exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction by HL&A and the payment to HL&A of the fee for providing the mortality and expense undertakings.

2. Applicants represent that the mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts. Applicants make this representation based upon a review of (i) current charge levels; (ii) minimum death benefit guarantees; (iii) guaranteed annuity purchase rates; (iv) accounting systems for separate account unit value administration; and (v) the markets in which the Contracts are offered. HL&A undertakes to maintain at its home office and make available to the Commission upon request a memorandum setting forth in detail the methodology underlying this representation and the contracts analyzed.

3. Applicants state that there is a likelihood that the proceeds from explicit sales load will be insufficient to cover the expected costs of distributing the contracts. In this regard, HL&A has concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract Owners. HL&A undertakes to maintain at its home office and make available to the Commission upon request a memorandum setting forth the basis for this representation.

4. Applicants represent that the Separate Account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company within the meaning of section 2(a)(19) of the 1940 Act, formulate and approve and plan under rule 12b–1 to finance distribution expenses.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts meet the standards in section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13361 Filed 6–5–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreement Filed During the Week Ended May 29, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48167.
Date filed: May 26, 1992.
Parties: Members of the International Air Transport Association.
Subject: MV/CSC/024 dated April 22, 1992
Mail Vote S057 (Reso 695–Airmail Board).
Proposed Effective Date: September 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–13372 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended May 29, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.) The due date for Answers, Conforming Applications, or

Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48168.
Date filed: May 27, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 24, 1992.
Description: Application of Aerolineas Mundo, S.A./ta AMSA, pursuant to section 402 of the Act and subpart Q of the Regulations requests a renewal of its foreign air carrier permit for authority to operate non-scheduled cargo service between the Dominican Republic and Puerto Rico (San Juan, Borrinquen, and Ponce), the United States Virgin Islands, and Miami, Florida, along with charter services under 14 CFR part 212.

Docket Number: 43272
Date filed: May 28, 1992
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 25, 1992
Description: Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for renewal of the Honolulu-Vancouver authority in its Route 531 certificate for a period of five years.

Docket Number: 44141
Date filed: May 28, 1992
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 25, 1992
Description: Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations for renewal of its certificate authority between Houston and Cancun, Cozumel, Merida, Puerto Vallarta and Acapulco permanently or for a period of at least five years.

Docket Number: 47703
Date filed: May 29, 1992
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 13, 1991
Description: Application of Reno Air, Inc., applies for issuance of a Notice, pursuant to § 201.6(a)(2) of the Economic Regulations of the Department of Transportation, authorizing Reno Air to begin issuing tickets and accepting payment for the air transportation proposed in its application in this proceeding. Reno Air requests such authority commencing on Monday, June 25, 1992 and continuing until Reno Air is issued an effective certificate on or about July 1, 1992.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 92-13373 Filed 6-5-92; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Intent to Rule on Application to Impose and use the revenue from a passenger facility charge (PFC) at Lambert-St. Louis International Airport, St. Louis, MO

AGENCY: Federal Aviation Adminstration, DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lambert-St. Louis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 8, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 602 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Donald W. Bennett, Director of Airports, City of St. Louis Airport Authority, at the following address: Lambert-St. Louis International Airport, P.O. Box 10212, St. Louis, Missouri 63145.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of St. Louis Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ellie Anderson, PFC Coordinator, FAA, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106, (816) 426-7425. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lambert-St. Louis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 17, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of St. Louis Airport Authority, was not substantially completed within the requirements of § 158.25 of part 158. The City of St. Louis Airport Authority submitted supplemental information on May 13, 1992, to complete the application. The FAA will approve or disapprove the supplemented application, in whole or in part, no later than September 11, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.
Proposed charge effective date: July 1, 1992.
Proposed charge expiration date: July 1, 1997.
Total estimated PFC revenue: $131,453,450.
Brief description of proposed project(s): Acquire land for noise compatibility purposes; terminal building expansion; construct two light rail stations; land acquisition for obstruction removal; construct access road; and rehabilitate apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-Demand Air Taxis Operating Exclusively Under FAR Part 135 Certification.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT"**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Airport Director's Office, City of St. Louis Airport Authority, Lambert-St. Louis International Airport.

Issues in Kansas City, Missouri on May 22, 1992.

George A. Hendon,
Manager, Airports Division Central Region.
[FR Doc. 92-13300 Filed 6-5-92; 8:45 am]
BILLING CODE 4910-13-M

RTCA Technical Management Committee; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for the meeting of the Technical Management Committee to be held June 19, 1992, in the RTCA conference room, 1140 Connecticut

Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Opening remarks and introductions; (2) Review/approve April 23, 1992, Technical Management Committee meeting summary, RTCA paper no. 373–92/TMC–27 (previously distributed); (3) Special committee activities overview; (a) SC–165 progress and schedule; (b) HIRF review; (c) SC–150 closout status; (d) Methodology to facilitate special committee oversight; (4) Consider for approval SC–165 report, "Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services (AMSS), Part A: Purpose and Scope and Equipment Performance Requirements"; (5) Consider for approval proposed Change no. 2 to DO–160C; revised Section 22.0, "Lightning Induced Transient Susceptibility," RTCA paper no. 413–92/SC–135–355 (preiously distributed); (6) Receive report of ad hoc group on proposed update of DO–195 and 196; (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 28, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92–13304 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 166 User Requirements for Future Airport and Terminal Area Communication, Navigation, And Surveillance Systems, Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix I), notice is hereby given for the fifteenth meeting of Special Committee 166 to be held June 24–26, 1992, in the Hughes Aircraft Conference Room, 19th floor, 1100 Wilson Boulevard, Arlington, VA (two blocks south of Rosslyn Metro station orange and blue line), commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the fourteenth meeting held on April 30 thru May 1, 1992; (3) Reports on action items assigned during the fourteenth committee meeting; (4) Approval of the eighth draft of the committee report preparatory to publishing a completed final report containing the Conclusions and Recommendations section agreed to after deliberations; (5) Discussion and approval of Conclusions and Recommendations section of the report; (6) Other business; (7) Date and place of next meeting (only if required).

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC., on June 2, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92–13305 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc. Task Force 1; GNSS Transition and Implementation Strategy Task Force (TF–1); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix I), notice is hereby given for the third meeting of the GNSS Transition and Implementation Strategy Task Force to be held June 23–25, 1992, at the Software Productivity Consortium, SPC Building, 2214 Rock Hill Road, Herndon, VA 22070, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Introductory remarks; (2) Approval of March 26/27, 1992, meeting summary; (3) Working group reports: accomplishments, issues, status; (4) Discussion/comments on initial draft of the GNSS Task Force Report; (5) Individual working group sessions; (6) Working group reports: status, plans; (7) Joint review of new issues; (8) Review of Task Force schedule; (9) Other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 28, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92–13303 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–13–M

Sonoma County Airport, CA; Intent to Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to Rule on application to impose a Passenger Facility Charge (PFC) at Sonoma County Airport, Santa Rosa, California.

SUMMARY: The Federal Aviation Administration (FAA) proposed to rule and invites public comment on the application to impose a PFC at Sonoma County Airports under the provision of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and 14 CFR part 158).

On May 29, 1992, the FAA determined that the application to impose a PFC submitted by Sonoma County Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 14, 1992.

DATES: Comments must be received on or before July 8, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Andrews, Airport Director, Sonoma County Airport, 2200 Airport Boulevard, Santa Rosa, California 95403–1091. Comments from air carriers and foreign air carriers may be in the same form as provided to Sonoma County Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The applications may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of proposed PFC: $3.00

Proposed charge effective date: 11/01/92
Proposed charge expiration date: 10/01/94
Total estimated PFC revenue: $113,000
Brief description of proposed project:
Airport Master Plan Update; Airport Drainage, Roadway, Taxiway and Ramp Improvements; Land for Approach Zone and Resident Relocation Cost.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sonoma County Airport.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Issued in Hawthorne, California, on April 3, 1992.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 92-13302 Filed 6-5-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of 49 CFR Part 236

Pursuant to 49 CFR part 235 and 49 U.S.C. app. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS-AP)-No. 3166

Applicant: Atchison, Topeka and Santa Fe Failway Company, Mr. W. S. Seery, Director Signal Systems, System Communications Building, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed modification of the traffic control system, on the single main track and controlled sidings, near Sais, New Mexico, milepost 875.9, Becker, New Mexico, milepost 881.6, and Bodega, New Mexico milepost 886.6, on the Central Region, Clovis Subdivision; consisting of the discontinuance and removal of six automatic block signals.

The reason given for the proposed changes is improved train operations through the installation of electronic-coded track circuits and poleline elimination.

BS-AP-No. 3167

Applicants:

National Railroad Passenger Corporation, Mr. P.A. Cannito, Vice President—Engineering, 30th and Market Streets, Philadelphia, Pennsylvania 19104.

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Enginer—C&S, 15 North 32d Street, Philadelphia, Pennsylvania 19104-2849.

The National Railroad Passenger Corporation (Amtrack) and Consolidated Rail Corporation jointly seek approval of the proposed discontinuance and removal of Ford Interlocking, in Philadelphia, Pennsylvania, milepost 81.2, on the Main Line, of Amtrak's Philadelphia Division; consisting of the conversion of the No. 11 power-operated crossover to hand operation equipped with an electric lock, the conversion of the No. 13 and No. 15 power-operated switches to hand operation, the discontinuance and removal of seven controlled signals and the No. 9 crossover, and the installation of two automatic signals.

The reason given for the proposed changes is to improve operations.

BS-AP-NO. 3168

Applicant: Burlington Northern Railroad Company, Mr. W.G. Peterson, Chief Engineer—Control Systems, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201-9136.

The Burlington Northern Railroad Company seeks approval of the proposed modification of the signal systems, on the single main track, between Staples, Minnesota, milepost 32.0 and Carlton, Minnesota, milepost 27.0 on the Dakota Division, Fourth Subdivision; consisting of the discontinuance and removal of one automatic block signal.

The reason given for the proposed changes is due to pole line elimination associated with the installation of electronic-coded track circuits.

BS-AP-No. 3169

Applicants:

National Railroad Passenger Corporation, Mr. P.A. Cannito, Vice President—Engineering, 30th and Market Streets, Philadelphia, Pennsylvania 19104.

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32d Street, Philadelphia, Pennsylvania 19104-2849.

The National Railroad Passenger Corporation (Amtrak) and Consolidated Rail Corporation jointly seek approval of the proposed reduction of the interlocking limits of Shoreline Junction Interlocking, milepost 75.2, near New Haven, Connecticut, on the Main Line, of Amtrak's Boston Division; consisting of the conversion of power-operated switch 7524Y to hand operation, the discontinuance and removal of signal 75201Y, and the relocation of signal 750324Y.

The reason given for the proposed changes is that the reduction in yard train operations no longer requires the power operation of switch 7524Y.

BS-AP-No. 3170

Applicant: Wheeling & Lake Erie Railway Company, Mr. John Bell, Senior Signal Technician, 100 East 1st Street, Brewster, Ohio 44613.

The Wheeling & Lake Erie Railway Company seeks approval of the proposed discontinuance and removal of the traffic control system on the single and double main tracks of the Bellevue Line between CP Rex, milepost 184, near Rexford, Ohio and Yeomans West, milepost 54.8, near Bellevue, Ohio, a distance of approximately 129 miles.

The reason given for the proposed changes is to retire facilities no longer required for present operations.

BS-AP-No. 3171

Applicant: Wheeling & Lake Erie Railway Company, Mr. John Bell, Senior Signal Technician, 100 East 1st Street, Brewster, Ohio 44613.

The Wheeling & Lake Erie Railway Company seeks approval of the proposed discontinuance and removal of the signal system on the single track of the Huron Branch between Huron Junction, milepost 0.0 and milepost 2.0, near Norwalk, Ohio.

The reason given for the proposed changes is to retire facilities no longer required for present operations.

BS-AP-No. 3172

Applicant: Burlington Northern Railroad Company, Mr. W. G. Peterson, Chief Engineer—Control Systems, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201-9136.

The Burlington Northern Railroad Company seeks approval of the proposed modification of the traffic control systems, on the single main track, between Bow, Washington, milepost 80.2 and South Bellingham, Washington, milepost 92.2, on the Pacific Division, Ninth Subdivision; consisting of the discontinuance and removal of four automatic signals, the relocation of six automatic signals, and

the installation of two new automatic signals.

The reason given for the proposed changes is due to pole line elimination associated with the installation of electronic coded track circuits.

BS–AP–No. 3173

Applicant: Atchinson, Topeka and Santa Fe Railway Company, Mr. W.S. Seery, Director Signal Systems, System Communications Building, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed discontinuance and removal of "Ottawa" control point, milepost 57.1 near Ottawa, Kansas, on the Eastern Region, Emporia Subdivision; consisting of the discontinuance and removal of seven controlled signals and the conversion of two power-operated switches to hand operation, one equipped with an electric lock.

The reason given for the proposed changes is due to current operating changes the control point is no longer needed.

BS–AP–No. 3174

Applicant Union Pacific Railroad Company, Mr. P.M. Abaray, Chief Engineer-Signals, 1416 Dodge Street, room 920, Omaha, Nebraska 68179.

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the automatic block signal system on the single main track, between Osawatomie, Kansas, milepost 335.0 and Herington, Kansas, milepost 451.5, on the Hoisington Subdivision, a distance of approximately 116.5 miles; consisting of the discontinuance and removal of 106 automatic block signals, the retention of 4 automatic block signals as operative approach signals, and the removal of the high water detector at milepost 340.4.

The reason given for the proposed changes is that the reduced volume of traffic operated over the line does not require the signal system.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on June 3, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety

[FR Doc. 92–13371 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–06–M

Federal Transit Administration

Environmental Impact Statement on Southtown Corridor Transit Improvements in Kansas City, MO

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Kansas City Area Transportation Authority (KCATA) are undertaking the preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA), for transit improvements in the Southtown Corridor of Kansas City. The EIS is being prepared in conformance with 40 CFR part 1500, Council on Environmental Quality, regulations for implementing the procedureal requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR part 622, Federal Transit Administation and Federal Highway Administration, Environmental impact and related procedures. In addition to fixed guideway or rail transit alternatives, the EIS will include an evaluation of the No-Action and Transportation System Management (TSM) alternatives and any additional alternatives which result from the scoping process. Scoping will be accomplished through correspondence with interested persons, organizations and federal state and local agencies and through three public meetings.

DATES: Written comments on the scope of alternatives and impacts to be considered must be recived by KCATA on or before July 10, 1992. Public scoping meetings will be held on Wednesday, June 24, 1992 at 1:30 p.m. at Kansas City, MO. City Hall; Wednesday, June 24, 1992 at 7 p.m. at Health Midwest; and on Thursday, June 25, 1992 at 7 p.m. at the Country Club Congregational Church. Interested persons may view exhibits explaining the Southtown Corridor beginning one hour prior to each meeting; See **ADDRESSES** below.

ADDRESSES: Written comments on the project scope should be sent to Mr. Jim Pritchett, Director of Marketing and Rail Planning, Kansas City Area Transportation Authority, 1200 East 18th Street, Kansas City, Missouri 64108. Scoping Meetings will be held at the following locations:

1. June 24 meeting—12:30 exhibit viewing: 1:30—public meeting
   Kansas City, MO. City Hall, 414 E. 12th St., 6th Floor Forum, Kansas City, Missouri 64106
2. June 24 meeting—6 exhibit viewing; 7 public meeting
   Health Midwest, Student Residence Gym, 2300 E. Meyer Blvd., Kansas City, Missouri
3. June 25 meeting—6 exhibit viewing; 7 public meeting
   Country Club Congregational Church, 205 W. 65th St., South Door, Kansas City, Missouri 64113

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Donald, Director of Planning, Federal Transit Administration, Phone: (816) 926–5053.

SUPPLEMENTARY INFORMATION: .

Scoping

The FTA and KCATA invite interested individuals, organizations and federal, state and local agencies to public scoping meetings to be held on June 24 and 25, 1992 at the three times and location indicated under **DATES** and **ADDRESSES** (above), to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives.

An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program and the preliminary project schedule is being mailed to affected federal, state and local agencies and to interested parties on record. Others may request the scoping materials by contacting Mr. Jim Pritchett at the address above or by calling him at (816) 346–0216. Scoping comments may be made verbally at any of the public scoping meetings or in writing. During scoping, comments should focus on identifying specific social, economic or environmental impacts to be evaluted and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transit objectives.

Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Drat EIS has been completed. If you wish to

be placed on a mailing list to receive further information as the project develops, contact Mr. Jim Pritchett as previously described.

Description of Study Area and Project Needs

The Southtown Corridor is a north-south travel corridor stretching about 12 miles in length from downtown Kansas City, Missouri on the north to the I–435 beltway on the south. At its widest, the corridor is 4.5 miles across and extends form State Line Road to the west approximately Van Brunt Blvd. on the east. The area forms a corridor with predominant north-south travel patterns generally independent of other regional travel flow.

The Southtown Corridor is a fairly densely developed urban corridor containing a number of important employement and activity centers, such as downtown Kansas City, Crown Center, Westport, The Plaza Waldo, Brookside, UMKC, the Linwood Shopping Center area and the historic 18th & Vine area. Urban redevelopment and grouth are centered on several major activity centers. Population decline indicates a need for action to stabilize the community. Opportunities exist to use the improvements and accessibility resulting from major transit capacity improvements as part of a program to accomplish this.

Transit improvements in the Southtown Corridor are intended to improve transit accessibility in the corridor. A protion of the corridor is largely composed of a low-income, and transit-dependent population. Improved transit may help maintain regional air quality by providing an alternative to the automobile for many trips.

Alternatives

Transportation alternatives proposed for consideration in the Southtown Corridor are the following:

1. A No-Build option, which involves no change to transportation services or facilities in the corridor beyond already committed projects;
2. A Transportation System Management (TSM) approach, which represents the optimum bus service improvements that can be made without construction of a fixed guideway;
3. Light rail transit extending from the River Market area to the Crown Center complex.
4. Light rail transit from the River Market area to 85th Street via the Bruce Watkins Drive alignment and/or the County Club alignment.

These alignments have been selected based on the results of prior planning efforts in the corridor area. Other alternatives using these alignments may emerge during the course of this Study.

Probable Effects

The FTA and KCATA plan to evaluate all significant social, economic, and environmental impacts of these and other alternatives and publish findings in the EIS. Among the primary issues are:

- Transportation service, including transit cost, transit service, patronage change and effect on traffic movement;
- Transit financial implications;
- The impact of the proposed alternatives on strengthening the urban core and other proposed improvements by other public and private agencies;
- Community impacts, including land use planning and zoning compatibility, neighborhood compatibility and impacts, local and regional economic impacts, aesthetics, utility relocations required, cultural impacts including the effects on historic, archeological, and park resources;
- Natural resource impacts, including air quality, noise and vibration, and effects on water resources and quality, natural features, and eco-systems. The proposed impacts will be identified both for the construction period and for the long term operation of the alternatives.

The proposed impact evaluation and criteria will take into account both positive and negative impacts, direct and indirect impacts, and site-specific and corridor-wide impacts. Evaluation criteria will be consistent with the applicable federal, state, and local standards, criteria, regulations, and policies. Mitigation (reduction) measures will be explored for any adverse impacts that are identified as part of the analysis.

FTA Procedures

In accordance with the Federal Transit Act, as amended, and FTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering, the next step in project planning. After its publication, the Draft EIS will be available for public and agency review and comment, and public hearings will be held. On the basis of the Draft EIS and the comments received, the KCATA will select a locally preferred alternative and seek approval from the FTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: June 3, 1992.

Lee O. Waddleton,

Midwestern Area Director.

[FR Doc. 92–13298 Filed 6–5–92; 8:45am]

BILLING CODE 4910–57–M

National Highway Traffic Safety Administration

[Docket No. 92–24, No. 1]

Chrysler Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

Chrysler Corporation (Chrysler) of Detroit, MI has determined that some of its vehicles are equipped with seat belt assemblies that fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies," and has filed an appropriate report pursuant to 49 CFR part 573. Chrysler has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.c. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

S4.6(b) of Standard No. 209 requires that a seat belt assembly that meets the requirements of manual belts subject to crash protection requirements of Standard No. 208 shall be permanently and legibly marked or labelled with the following statement:

This dynamically-tested seat belt assembly is for use only in (insert specific seating position(s), e.g., "front right") in (insert specific vehicle make(s) and model(s)). Chrysler estimates that it produced 375,000 vehicles for sale in the United States whose front outboard seat belt assemblies were not marked or labelled as required by S4.6(b). The vehicles involved were produced in the 1992 model year. They are as follows:

Make	Model
Chrysler	Town and Country
Plymouth	Voyager
	Grand Voyager
Jeep	Comanche
	Cherokee

Make	Model
Dodge	Ram Van
	Ram Maxivan
	Ram Wagon
	Ram Maxiwagon
	Ram Pickup
	Ramcharger
	Caravan
	Caravan C/V
	Grand Caravan
	Dakota

Chrysler supports its petition with the following:

The system utilized by Chrysler dealers to obtain replacement parts prevents the misapplication for which the statement is apparently intended. The service parts ordering system is organized to guide the user to the proper component as follows:

—Parts micro fiche and catalogs are issued separately by model year and major vehicle category; i.e., passenger car, light truck, Jeep or Import.

—Every vehicle is broken down into major groups throughout the Service and Parts division systems; i.e., engine, transmission, body, etc.

—Within each major group, components are further organized by sub group; i.e., engine size, transmission type, body-interior trim, etc.

—Within each sub group, models are indexed by vehicle family; i.e., AB, AD, AN bodies for the light truck vehicle category, MJ, XJ bodies for the Jeep category and AS body for minivans.

—Each sub group of components contains a minimum of two pages—a detailed graphic (exploded view) with all components numbered, followed by the listing description of the identified parts, showing the part number, application, quantity, and other vehicle specifics as necessary.

* * *

—The general part number system utilized is even numbers for right (passenger side) components and odd numbers for left (driver side) components.

All seat belt assemblies utilized in the subject vehicles are identified with a part number label. The replacement parts are individually packaged with the part number prominently displayed. Application questions that arise during replacement can be resolved by simply comparing the O.E.M. and replacement part numbers.

Each vehicle family (body) has a unique part number prefix (first 3 characters) in addition to the even/odd numbering system indicating right/left side.

Chrysler Corporation has maintained a very reasonable pricing structure for seat belt retractor assembles to encourage replacement whenever necessary. Therefore, we believe the incentive for one to circumvent our parts ordering system for purposes of obtaining a less costly used part (and any resulting concern for potential misapplication) is minimal.

All of the subject seat belt assemblies meet both the new dynamic requirements and the static requirements of FMVSS 209 from which they are now exempt.

The seat belt assembles utilized in the subject vehicles are not likely to be replaced with units intended for other models due to a variety of significant differences as follows:

—Various mounting configuration and location differences,

—Retractor locking device, spool size, webbing length and housing configuration differences,

—Differences in retractor trim covers, which are in many cases a part of the replacement unit,

—Inconsistent color availability between vehicle models,

—Various "B" post upper anchorage attachment configurations,

—Differences in buckle latch plate configuration, and the inclusion of belt webbing cinch mechanisms in some assemblies.

NHTSA has delayed extending the subject statement requirement to passenger cars, and is currently evaluating other means to address the issue for which the statement is intended.

Chrysler is not aware of any owner complaints, field reports or allegations of hazardous circumstances relating to the omission of the statement or the misapplication of seat belt assemblies in the subject vehicles.

Interested persons are invited to submit written data, views and arguments on the petition of Chrysler described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: July 8, 1992.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: June 2, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–13299 Filed 6–5–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

June 1, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0052

Form Number: FMS Forms 469, 460, 459, and 458

Type of Review: Extension

Title: Financial Institution Forms For Federal Tax and Treasury and Loan Depositary

Description: Tax Administration system, Bank Deposit Financial institutions are required to complete a contract application to participate in the FTD/TT&L Program. The approved application designates the depositary as an authorized recipient of taxpayers' deposits for Federal taxes

Respondents: Businesses or other for-profit

Estimated Number of Respondents: 450

Estimated Burden Hours Per Response: 30 minutes

Frequency of Response: Other (Once for the duration of authorization)

Estimated Total Reporting Burden: 450 hour

Clearance Officer: Jacqueline R. Perry (301) 436–6453, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and

Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–13325 Filed 6–5–92; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

June 1, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0013
Form Number: None
Type of Review: Reinstatement
Title: Request for Service Corporation Activity
Description: 12 CFR 545.74 requires Federal Associations to obtain approval prior to operating a service corporation engaged in activities not preapproved by regulation. The regulation also requires a recordkeeping requirement for securities brokerage services. These requirements allow the OTS to review service corporation activity and ensure it will not adversely affect an institution's safety and soundness.
Respondents: Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 152
Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours
Frequency of Response: Other (Submission required each time a service corporation is requested.)
Estimated Total Reporting/ Recordkeeping Burden: 464 hours
OMB Number: 1550–0017
Form Number: None
Type of Review: Reinstatement
Title: Request to Amend Association's Bylaws
Description: 12 CFR 544.5 and 552.5 require Federal Associations to obtain OTS approval of any change in their bylaws which is not preapproved by regulation. The purpose of the bylaw amendment application is to evaluate whether the bylaw change is justified and will not negatively impact the association and its members.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 180
Estimated Burden Hours Per Respondent: 2 hours
Frequency of Response: Other (Submission required when bylaws are amended.)
Estimated Total Reporting Burden: 360 hours
OMB Number: 1550–0018
Form Number: None
Type of Review: Reinstatement
Title: Request to Amend Association's Charter
Description: 12 CFR 544.5 and 552.4 require Federal association to obtain OTS approval of any change in their charter which is not preapproved by regulation. The charter amendment application evaluates whether there is a need for the proposed amendment and whether change could be accomplished under existing statutes and regulations
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 83
Estimated Burden Hours Per Respondent: 2 hours
Frequency of Response: Other (Submission required each time applicant needs to amend its charter.)
Estimated Total Recordkeeping Burden: 166 hours
Clearance Officer: John Turner (202) 906–6840, Office of Thrift Supervision, 2d Floor, 1700 G Street, NW, Washington, DC 20552
OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–13322 Filed 6–8–92; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

June 1, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0010
Form Number: IRS Form W–4
Type of Review: Revision
Title: Employee's Withholding Allowance Certificate
Description: Employee file this form to tell employers (1) the number of withholding allowances claimed, (2) dollar amount they want withholding increased each pay period, (3) if they are entitled to claim exemption from withholding. Employers use this information to figure the correct tax to withhold from the employee's wages
Respondents: Individuals or households, State of local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small business or organizations
Estimated Number of Respondents/ Recordkeepers: 54,209,079
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 48 minutes
Learning about the law or the form: 10 minutes
Preparing the form: 69 minutes
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 112,754,884 hours
OMB Number: 1545–0219
Form Number: IRS Form 5884
Type of Review: Extension
Title: Job Credit
Description: Internal Revenue Code (IRC) section 38(b)(2) allows a credit against income tax to employers hiring individuals from certain targeted groups such as welfare recipients, etc. The employer uses Form 5884 to figure this jobs credit. IRS uses the information on the form to verify that the correct amount credit was claimed
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number Respondents/ Recordkeepers: 85,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 3 hours, 50 minutes
Learning about the law or the form: 35 minutes
Preparing and sending the form to the IRS: 41 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 434,350 hours

OMB Number: 1545–0895
Form Number: IRS Form 3800
Type of Review: Revision
Title: General Business Credit
Description: Internal Revenue Code (IRC) section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit, which is an aggregation of their investment credit, jobs credit, alcohol fuel credit, research credit, low-income housing credit, disabled access credit, and enhanced oil recovery credit. Form 3800 is used to figure the correct credit
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 247,500
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 10 hours, 46 minutes
Learning about the law or the form: 42 minutes
Preparing and sending the form to the IRS: 54 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 3,059,100 hours
OMB Number: 1545–0984
Form Number: IRS Form 8586
Type of Review: Revision
Title: Low-Income Housing Credit
Description: The Tax Reform Act of 1986 (Code section 42) permits owners of residential rental projects providing low-income housing to claim a credit against income tax for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by IRS to verify that the correct credit has been claimed
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 50,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 5 hours, 59 minutes
Learning about the law or the form: 1 hour, 32 minutes
Preparing and sending the form to the IRS: 4 hours, 6 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 580,000 hours
OMB Number: 1545–1007
Form Number: IRS Form 8606
Type of Review: Extension
Title: Nondeductible IRS Contributions, IRA Basis, and Nontaxable Distributions
Description: Internal Revenue Code (IRC) section 408(o) allows taxpayers to make nondeductible contributions to individual retirement plans. This section also requires taxpayers to report to the Service certain information regarding nondeductible contributions
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 997,748
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 26 minutes
Learning about the law or the form: 7 minutes
Preparing the form: 22 minutes
Copying, assembling, and sending the form to the IRS: 20 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 1,267,140 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–13323 Filed 6–5–92; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

June 1, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0101
Form Number: None
Type of Review: Extension
Title: Declaration of Ultimate Consignee that Articles Were Exported for Temporary Scientific or Educational Purposes
Description: The owner of duty-free containers or holders is required to keep adequate records open to inspection by Customs Officers to document that they are being used in international traffic and therefore are still entitled to duty-free status. Owners are usually companies involved in foreign trade
Respondents: Businesses or other for-profit
Estimated Number of Recordkeepers: 20
Estimated Burden Hours Per Recordkeeper: 50 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,000 hours
Clearance Officer: Ralph Meyer (202) 566–9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmetmental Reports Management Officer.

[FR Doc. 92–12324 Filed 6–5–92; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

June 1, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0006
Form Number: ATF F 3310.4
Type of Review: Extension
Title: Report of Multiple Sales or Other Disposition of Pistols and Revolvers
Description: This form is used by ATF to develop investigative leads and patterns of criminal activity. It identifies possible handgun traffickers in the illegal market. Its use along the border identifies possible international traffickers
Respondents: Businesses or other for-profit

Estimated Number of Respondents: 10,000
Estimated Burden Hours Per Respondent: 12 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 8,000 hours
OMB Number: 1512–0042
Form Number: ATF F 7 (5310.12)
Type of Review: Extension
Title: Application for License, Under 18 USC Chapter 44, Firearms
Description: This form is used by the public when applying for a Federal firearms license for activities as a dealer, importer, manufacturer, or collector. The information requested on the form establishes eligibility for the license
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 35,000
Estimated Burden Hours Per Respondent: 57 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 33,250 hours
OMB Number: 1512–0119
Form Number: ATF F 2149/1250 (5200.14)
Type of Review: Extension
Title: Notice of Removal of Tobacco Products, Cigarette Papers, or Cigarette Tubes
Description: Tobacco manufacturers or export warehouse proprietors are liable for tax on tobacco products on their premises. Tobacco products, cigarette papers and tubes may be removed without payment of tax, for specific and verifiable purposes. This form documents and verifies these removals
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 314
Estimated Burden Hours Per Respondent: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 21,195 hours
OMB Number: 1512–0162
Form Number: ATF F 3067 (5210.9)
Type of Review: Extension
Title: Inventory—Manufacturer of Tobacco Products
Description: This form is necessary to determine the beginning and ending inventories of tobacco products at the premises of a tobacco products manufacturer. The inventory is recorded on this form by the proprietor and is used to determine tax liability, compliance with regulations and for protection of the revenue
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 34
Estimated Burden Hours Per Respondent: 5 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 170 hours
OMB Number: 1512–0164
Form Number: ATF F 3069 (5200.7)
Type of Review: Extension
Title: Schedule of Tobacco Products, Cigarette Papers or Tubes Withdrawn From the Market
Description: ATF F 3069 (5200.7) is sued by persons who intend to withdraw tobacco products from the market for which the tax has already been paid or determined. The form describes the products that are to be withdrawn to determine the amount of tax to be claimed later as a tax credit or refund. The form notifies ATF when withdrawal or destruction is to take place, and ATF may elect to supervise withdrawal or destruction
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 119
Estimated Burden Hours Per Respondent: 45 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,071 hours
OMB Number: 1512–0209
Form Number: ATF F 5110.50
Type of Review: Extension
Title: Tax Deferral Bond—Distilled Spirits (Puerto Rico)
Description: ATF F 5110.50 is the bond form to secure payment of excise taxes on distilled spirits shipped to the U.S. from Puerto Rico on deferral of tax. The form identifies the principal, the surety, purpose of bond, and allocation of the penal sum among the principal's locations
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 10
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 10 hours
OMB Number: 1512–0334
Form Number: ATF REC 5150/3
Type of Review: Extension
Title: Usual and Customary Business Records Relating to Tax-Free Alcohol
Description: Tax-free alcohol is used for nonbeverage purposes in scientific research and medicinal purposes by educational organizations, hospitals, laboratories, etc. Records maintain spirits accountability and protect tax revenue and public safety
Respondents: State and local governments, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 4,444
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour
OMB Number: 1512–0335
Form Number: ATF REC 5150/4
Type of Review: Extension
Title: Letterhead Application and Notices Relating to Tax-Free Alcohol
Description: Tax-free alcohol is used for nonbeverage purposes in scientific research and medicinal uses by educational organizations, hospitals, laboratories, etc. Permits/Applications control authorized uses and flow. Protect tax revenue and public safety
Respondents: State or local governments, Businesses of other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 4,444
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,222 hours
OMB Number: 1512–0345
Form Number: ATF REC 5150/12
Type of Review: Extension
Title: Manufacturers Recovering Taxpaid Alcohol
Description: Apothecaries, pharmacists and manufacturers of certain nonbeverage products may use and recover taxpaid alcohol in the manufacture of such products. The manufacturer may then claim drawback of the tax paid on the alcohol so used. Records of recovered spirits protect against duplication of claims or diversion to beverage use
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 20
Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting/Recordkeeping Burden: 1,800 hours
OMB Number: 1512–0358
Form Number: ATF REC 5210/1
Type of Review: Extension
Title: Tobacco Products Manufacturers—Records of Operations
Description: Tobacco products manufacturers must maintain a system of records that provide accountability over the tobacco

products received and produced. Needed to ensure tobacco transactions to be traced, and ensure that tax liabilities have been totally satisfied
Respondents: Businesses or other for-profit
Estimated Number of Recordkeepers: 114
Estimated Burden Hours Per Respondent: 150 hours
Frequency of Response: Other
Estimated Total Reporting Burden: 17,100 hours
OMB Number: 1512–0363
Form Number: ATF REC 5210/6
Type of Review: Extension
Title: Tobacco Products Manufacturers—Supporting Records for Removals for the Use of the United States
Description: Used by tobacco products manufacturers to record removals of tobacco products for the use of the United States. Used by ATF to verify that removal was tax exempt. Needed to maintain accountability over removals; allows transactions to be traced. Protects tax revenue.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 125
Estimated Burden Hours Per Recordkeeper: 5 hours
Frequency of Response: Other
Estimated Total Reporting Burden: 625 hours
OMB Number: 1512–0368
Form Number: ATF REC 5230/1
Type of Review: Extension
Title: Tobacco Products Importer or Manufacturer—Records of Large Cigar Wholesale Prices
Description: Used by tobacco products importers or manufacturers who import or make large cigars. Record needed to verify wholesale prices of those cigars; tax is based on those prices. Ensures that all tax revenues due the government are collected
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 112
Estimated Burden Hours Per Respondent: 2 hours, 20 minutes
Frequency of Response: Other
Estimated Total Reporting Burden: 261 hours
OMB Number: 1512–0391
Form Number: ATF REC 5210/10
Type of Review: Extension
Title: Tobacco—Record of Disposition More than 60,000 Cigarettes in a Single Transaction
Description: Records must be maintained by tobacco products manufacturers and cigarette distributors showing details of large cigarette transactions; used to trace the movement of contraband cigarettes. Helps curtail the illicit traffic in cigarettes between states
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 9,500
Estimated Burden Hours Per Recordkeeper: 120 hours
Frequency of Response: Other
Estimated Total Reporting Burden: 1,140,000 hours
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–13327 Filed 6–5–92; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF TREASURY

Internal Revenue Service

[Delegation Order No. 97 (Rev. 31)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order extends to all Associate Chief Counsels the authority, for matters under their respective jurisdictions, to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of that person for a taxable period ended prior to the date of agreement and related specific items affecting other taxable periods. The revised delegation order also permits the Chief Counsel to redelegate any authority delegated to him under the delegation order to the Associate Chief Counsels and their Deputies for cases under their respective jurisdictions, and to the Assistant Chief Counsels for cases under their respective jurisdictions that do not involve precedent issues.

FOR FURTHER INFORMATION CONTACT: Philip E. Bennet, Technical Advisor to the Associate Chief Counsel (Domestic), 1111 Constitution Avenue, NW., room 5541, Washington, DC 20024. Tel. No. (202) 566–3179 (not a toll-free number).

DATES: Effective date: October 1, 1991.

SUBJECT: Closing agreements concerning Internal Revenue Tax Liability.

[Amended and Supplemented by Delegation Order No. 225].

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121–1(a); Treasury Order No. 150–07; Treasury Order No. 150–09; and Treasury Order No. 150–17, subject to the transfer of authority covered in Treasury Order No. 120–01, as modified by Treasury Order No. 150–27, as revised, this authority is hereinafter delegated.

1. The Chief Counsel is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions if the request to the Chief Counsel for determination or ruling was made before any affected returns have been filed.

2. The Associate Chief Counsels and the Assistant Commissioners (Examination) and (International) are hereby authorized for matters under their respective jurisdictions to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Assistant Commissioner (International) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) with respect to the performance of his/her functions as the competent authority under the tax conventions of the United States.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction that is in respect of any transaction concerning employee plans or exempt organizations.

4. The Assistant Commissioner (International); Regional Commissioners; Regional Counsel; Assistant Regional Commissioners (Examination); Service Center Directors; Director, Austin Compliance Center; District Directors; Chiefs and Associate Chiefs of Appeals Offices and Appeals Team Chiefs with respect to his/her team cases, are hereby authorized in

cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. The Associate Chief Counsels; the Assistant Commissioners (Employee Plans and Exempt Organizations) and (International); Regional Commissioner; Regional Counsel; Chiefs and Associate Chiefs of Appeals Offices; and Appeals Team Chiefs with respect to his/her teams cases, are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

6. The Assistant Commissioner (International) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate from whom he/she acts) in cases under his/her jurisdiction, and to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64–54, 1964–2 C.B. 1008, under Revenue Procedure 72–22, 1972–1 C.B. 747, and under Revenue Procedure 69–13, 1969–1 C.B. 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65–17, 1965–1 C.B. 833.

7. The authority delegated herein does not include the authority to set aside any closing agreement.

8. Authority delegated in this Order may not be redelegated, except that the Chief Counsel may redelegate the authority contained in paragraph 1 to the Associate Chief Counsels and the Deputy Associate Chief Counsels for cases under their respective jurisdictions, and to the Assistant Chief Counsels for cases under their respective jurisdictions that do not involve precedent issues; the Assistant Commissioners (Examination) and (International) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioners (Examination) and (International); the Deputy Chief Counsel may redelegate the authority in paragraph 2 of this Order but not lower than the Deputy Associate Chief Counsels; and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority in paragraph 2 of this Order but not lower than the Deputy Associate Chief Counsels; and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the Staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues; Service Center Directors and Director, Austin Compliance Center may redelegate the authority contained in paragraph 4 of this Order but not below the Chief, Examination Support Unit with respect to agreements concerning the administrative disposition of certain tax shelter cases; and not below the Chief; Windfall Profit Tax Staff, Austin Service Center or Austin Compliance Center with respect to entering into and approving a written agreement with the Tax Matters Partner/Person (TMP) and one or more partners or shareholders with respect to whether the partnership or S corporation acting through its TMP, is duly authorized to act on behalf of the partners or shareholders in the determination of partnership or S corporation items for purposes of the tax imposed by chapter 45, and for purposes of assessment and collection of the windfall profit tax for such partnership or S corporation taxable year. The Assistant Commissioner (International) and District Directors may redelegate the authority contained in paragraph 4 of this Order but not below the Chief, Quality Review Staff/Section with respect to all matters, and not below the Chief, Examination Support Staff/Section, or Chief, Planning and Special Programs Branch/Section with respect to agreements concerning the administrative disposition of certain tax shelter cases, or Chief, Special Procedures function with respect to the waiver of right to claim refunds for those responsible officers who pay the corporate liability in lieu of a 100-percent penalty assessment under IRC 6672.

9. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

10. Delegation Order No. 97 (Rev. 30), effective October 1, 1991, is hereby superseded.

Approved:

Dated: May 18, 1992.

Michael P. Dolan,

Deputy Commissioner.

[FR Doc. 92–13261 Filed 6–5–92; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Dutch and Flemish Seventeenth Century Paintings: The Harold Samuel Collection" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Mississippi Museum of Art, Jackson, Mississippi, from on or about August 1, to on or about September 27, 1992; the Virginia Museum of Fine Arts, Richmond, Virginia, from on or about October 13, to on or about December 6, 1992; The Frick Art Museum, Pittsburgh, Pennsylvania, from on or about December 19, 1992, to on or about February 14, 1993; the Museum of Fine Arts, Boston, Massachusetts, from on or about March 13, to on or about May 9, 1993; and the Seattle Art Museum, Seattle, Washington, from on or about June 3, to on or about July 25, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: June 2, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92–13272 Filed 6–5–92; 8:45am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Luisa Alvarez of the Office of the General Counsel of USIA. The telephone number is 202/619–6827, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Public Law 92–463, the Department of Veterans Affairs gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 M Street NW., Washington, DC July 14 through July 17, 1992. The session on July 14, 1992, is scheduled to begin at 6:30 p.m. and end at 9:30 p.m. The sessions on July 15, 16, 17, 1992, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and developmet applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) for the July 14, session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On July 15–17, 1992, the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 522b(c)(6), and (c)(9)(b) and the determination of the Secretary of the Department of Veterans Affairs under sections 10(d) of Public Law 92–463 as amended by section 5(c) of Public Law 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service, Department of Veteran Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, (Phone: 202–535–7278) at least five days before the meeting.

Dated: June 1, 1992.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–13394 Filed 6–5–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 110
Monday, June 8, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, June 10, 1992.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Warren Steen Construction, Inc.*, Docket No. LAKE 89-68-M. (Issues include whether the judge erred in concluding that Warren Steen violated 30 C.F.R. § 56.12071, and whether the violation was the result of unwarrantable failure.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653-5629/(202) 708-9300 for TDD Relay; 1-800-877-8339 for toll free.

Dated: June 3, 1992.

Jean H. Ellen

[FR Doc. 92-13532 Filed 6-4-92 2:30 p.m.

BILLING CODE 6735-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 9-92

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and time	Subject matter
Tues., June 23, 1992 at 2:00 p.m.	Consideration of Proposed Decisions on claims against Iran.
Wed., June 24, 1992 at:	Oral Hearings on objections to Proposed Decisions issued on claims against Iran:*
10:00 a.m.	IR-0416—Joseph A. Sokoloski.
10:30 a.m.	IR-1143—Estate of Beunus E. Kinney, Dec'd.
11:00 a.m.	IR-0691—James C. Medlock.
11:30 a.m.	IR-1125—Charles M. Carriger.
2:00 p.m.	IR-0013—Jon L. Buczek.

*The hearing site will be: 601 D Street, NW., Classroom B, 10th Floor, Patrick Henry Bldg., Washington, DC.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on June 3, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-13453 Filed 6-4-92; 10:59 am]

BILLING CODE 4410-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-92-14]

TIME AND DATE: June 18, 1992 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda of future meeting
2. Minutes
3. Ratification List
4. Petitions and complaints—Certain bulk bags (Docket number 1695)
5. Inv. 701-TA-318 (Preliminary) and 731-TA-560-561 (Preliminary) (Sulfanilic Acid from the Republic of Hungary and India)—briefing and vote.
6. Inv. 731-TA-520-521 (Final) (Carbon Steel Butt-Weld Pipe Fittings from China and Thailand)—briefing and vote.
7. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: June 3, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-13439 Filed 6-4-92; 10:48 am]

BILLING CODE 7020-02-M

NATIONAL SCIENCE BOARD

DATE AND TIME:

June 18, 1992, 8:30 a.m. Closed Session
June 19, 1992, 8:30 a.m. Closed Session
June 19, 1992, 11:15 a.m. Closed Session

PLACE: National Science Foundation; 1800 G Street, NW, Rm. 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, June 18—Closed Session: 8:30 a.m.—4:00 p.m.

8:30a
Introduction—(Dr. Massey)
9:00a
Theme No. 1—Intellectual Integration
10:00a
Theme No. 2—Organizational Integration
11:00a
Theme No. 3—People, the Source of Success
12:00-1p
Lunch
1:00p
Theme No. 4—NSF, an Adaptive Institution
2:00p
Theme No. 5—Accountability
3:00p
Discussion

Friday, June 19—Closed Session: 8:30 a.m.-11:15 a.m.

8:30a
Minutes of May 1992 Meeting
8:35a
Chairman's Report
8:45a
Grants & Contracts (Dr. Baker)
9:00a
Long Range Plan/1994 Budget

Friday, June 19—Open Session 11:15 a.m.-Noon

11:15a
Minutes of May 1992 Meeting
11:20a
Director's Report
1130a

Report of Committee on Industrial Research & Development

Marta Cehelsky,

Executive Officer.

[FR Doc. 92-13475 Filed 6-4-92; 12:06 pm]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 8, 15, 22, and 29, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 8

Thrusday, June 11

2:00 p.m.
Discussion of Internal Management Issues (Closed—Ex.2)

3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 15—Tentative

Friday, June 19

10:00 a.m.
Briefing on Requests to DOE for Technology Transfers Under 10 CFR Part 810 (Closed—Ex. 1 and 4)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 22—Tentative

Wednesday, June 24

9:00 a.m.
Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

2:30 p.m.
Briefing on Proposed Part 100 Rule Change (Public Meeting)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, June 25

9:00 a.m.
Briefing by NUMARC on First-of-a-Kind Engineering (Foake) (Public Meeting)

1:30 p.m.
Meeting with Professor Feshbach on Electrical Energy Production in the Former Soviet Union (Public Meeting)

Week of June 29—Tentative

Thursday, July 2

9:30 a.m.
Periodic Briefing on Operation Reactors and Fuel Facilities (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Commission Order on Shoreham Decommissioning Issues in Response to SECY-92-140" scheduled for June 3, *postponed.*

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on the date.

To Verify the Status of Meeting Call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: June 3, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92-13531 Filed 6-4-92; 2:29 pm]

BILLING CODE 7590-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on June 1, 1992, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for July 6, 1993, in Washington, DC. The members will 1) consider a filing with the Postal Rate Commission for a Discount for Bulk Small Parcels and 2) be briefed on a future filing with the Postal Rate Commission for a Mail Classification Change Regarding Delivery Point Barcoding.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Mackie, Nevin, Pace, Setrakian and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Hughes.

The Board determined that pursuant to section 552b(c)(3) Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552(f)(1) of Title 5, United States Code, and section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 552b(c)(3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39 United States Code; and section 7.3(c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 92-13458 Filed 6-4-92; 8:45 am]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 57, No. 110
Monday, June 8, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AC91

Correction of Earnings Records After Expiration of Time Limitation

Correction

In rule document 92-11944 beginning on page 21599 in the issue of Thursday, May 21, 1992, make the following correction:

On page 21599, in the first column, under **SUMMARY:**, in the third line, "establish" was mispelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-73]

Federal Property Suitable as Facilities to Assist the Homeless

Correction

In notice document 92-8090 beginning on page 12508 in the issue of Friday, April 10, 1992, make the following correction:

On page 12515, in the second column, insert the file line and the billing code to read:

[FR Doc. 92-8090 Filed 4-9-92; 8:45 am]

BILLING CODE 4210-10-M

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-02-4212-13; IDI-27581, IDI-28415]

Issuance of Land Exchange Conveyance Documents; ID

Correction

In notice document 92-10145 beginning on page 18903 in the issue of Friday, May 1, 1992, on page 18904, in the second column, in the second line, delete "Q02".

BILLING CODE 1505-01-D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AA42

Disposition of Federal Records

Correction

In rule document 92-12426 beginning on page 22431 in the issue of Thursday, May 28, 1992, make the following correction:

§ 1228.76 [Corrected]

On page 22432, in the second column, in § 1228.76, in the fifth line, after "Archives" insert "in accordance with subpart J of this part".

BILLING CODE 1505-01-D

federal register

Monday
June 8, 1992

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-033-d]

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: In this final standard the Occupational Safety and Health Administration (OSHA) amends its present standards for regulating occupational exposure to asbestos in general industry (29 CFR 1910.1001) and construction (29 CFR 1928.56).

OSHA has reviewed available relevant evidence concerning the health effects of nonasbestiform tremolite, anthophyllite and actinolite and has also examined the feasibility of various regulatory options. Based on the entire rulemaking record before it, OSHA has made a determination that substantial evidence is lacking to conclude that nonasbestiform tremolite, anthophyllite and actinolite present the same type or magnitude of health effect as asbestos. Further, substantial evidence does not support a finding that exposed employees would be at a significant risk because nonasbestiform tremolite, anthophyllite or actinolite was not regulated in the asbestos standards.

OSHA hereby lifts the Administrative Stay, removes and reserves 29 CFR 1910.1101, and amends the revised asbestos standards to remove nonasbestiform tremolite, anthophyllite and actinolite from their scope.

DATES: *Effective date:* This final rule shall become effective May 29, 1992.

Administrative stay: The Administrative Stay expired May 30, 1992.

ADDRESSES: For additional copies of this document, contact OSHA Office of Publications; U.S. Department of Labor, room N-3101, 200 Constitution Ave., NW., Washington, DC 20210, Telephone (202)-523-9667.

For copies of materials in the docket, contact: OSHA Docket Office, Docket No. H-033d, U.S. Department of Labor, room N-2625, 200 Constitution Ave., NW., Washington, DC 20210, Telephone (202)-523-7894. The hours of operation of the Docket Office are 10 a.m. until 4 p.m.

In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of this final decision, under section 6(f) of the OSH Act, the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, room S-4004, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3649, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

This preamble discusses OSHA's decision to remove nonasbestiform tremolite, anthophyllite, and actinolite (herein referred to as ATA and/or nonasbestiform ATA) from the asbestos standards for general industry and construction (29 CFR 1910.1001 and 1926.58). Instead, exposure to nonasbestiform ATA will be regulated by the particulates not otherwise regulated (PNOR) limit in Table Z-1-A of 1910.1000 [15 mg/m^3 (total dust); 5 mg/m^3 (respirable dust)]. Becuase nonasbestiform ATA is found in combination with other minerals, some of which are regulated by other exposure limits in Table Z-1-A, some employees exposed to nonasbestiform ATA will be protected by those exposure limits as well.

OSHA is also removing and reserving 29 CFR 1910.1101, which was designated "Asbestos" and which has been applied to nonasbestiform ATA during the administrative stay of the revised asbestos standards (29 CFR 1910.1001 and 29 CFR 1926.58). OSHA has determined that the 1972 asbestos standard, which had been redesignated 1910.1101, no longer applies to nonasbestiform ATA and thus, there is no current reason to continue to include it in the Code of Federal Regulations.

As discussed further in this preamble, OSHA's determination to remove nonasbestiform ATA from the scope of the asbestos standards, is based on the insufficiency of evidence to support determinations that their further inclusion would protect exposed employees from a risk of disease which was the equivalent in incidence and gravity to asbestos related disease, and that removing coverage would pose a significant risk to exposed employees.

The Agency also finds that the evidence is insufficient to regulate nonasbestiform ATA as presenting a significant health risk to employees other than as a physical irritant, without regard to its analogy to asbestos. Thus no separate standard is necessary at this time and the PNOR limit is appropriate.

In summary the basis for these findings is as follows. Asbestos and nonasbestiform ATA appear to be distinguishable mineral entities on a population basis, and in most instances on a particle basis. The characteristics which differentiate them generally appear to correspond to the properties which may dictate different biologic response. There are mechanistic data from experimental animals exposed to various durable minerals which support counting some particles of nonasbestiform ATA like all asbestos fibers. However, available toxicological and epidemiologic evidence related specifically to nonasbestiform ATA is negative or inconclusive on the issue. Also, in most cases, particles of nonasbestiform ATA appear to be a very small fraction of the dust population to which employees are exposed. Therefore, OSHA finds there is insufficient evidence to support regulating nonasbestiform ATA as presenting a risk similar in kind and extent to asbestos.

Regulating nonasbestiform ATA on its own is also precluded by the limitations of the available evidence. Dose response data concerning nonasbestiform ATA exposure alone is not available; human and animal studies concerning nonasbestiform ATA are individually and collectively, equivocal. Most of the studies do not, on their face report results which show a statistically significant positive response due to nonasbestiform ATA exposure. Criticisms concerning their interpretation mainly concern their power to disprove an association between nonasbestiform ATA exposure and abestos-related disease. OSHA finds that even if these criticisms are accepted, the totality of evidence still does not constitute affirmative evidence supporting regulating nonasbestiform ATA as presenting a significant health risk.

This rulemaking record therefore is distinguishable from the body of evidence in the EtO rulemaking which was considered "compelling" in the aggregate, although most of the studies were individually flawed. *(Public Citizen Health Research Group* v.

Tyson, 796 F2d 1479). Accordingly, the Agency has determined to not regulate nonasbestiform ATA exposure in a separate standard, since it is unable to conclude, given the information currently available, that it presents a significant risk to exposed employees, at current exposure levels, at any of the asbestos PELs which applied during the history of asbestos standards, or at any other specific level.

OSHA also believes that evidence in this record does not show that removing nonasbestiform ATA from the scope of the asbestos standards will pose a significant risk to exposed employees. As discussed later in this document, testimony and evidence which is not controverted, indicates that, although there is a risk of nonmalignant respiratory disease from high exposures to talc containing nonasbestiform ATA, (See discussion during regulatory alternatives), nonasbestiform ATA is not identified as the causative agent of such nonmalignant disease. OSHA has also determined that there is insufficient health effects evidence linking exposure to nonasbestiform ATA to a heightened risk of cancer. Historic exposure levels of talc containing nonasbestiform ATA (converted from mppcf) linked to production of excess nonmalignant disease have been estimated as approximately 4 to 12 mg/m ^{3}. At levels estimated at approximately 1.5 to 6.5 mg/m ^{3} (Ex. 84–141, docket H–033c, Kleinfeld et al., at 665; conversion made by ACGIH 1986) excess nonmalignant respiratory disease appears to be eliminated. The current PEL for talc is 2 mg/m ^{3}. (Talc is measured on a gravimetric basis rather than by fiber and is thus measured in mg/m ^{3}.)

Without inclusion in the asbestos standards, employees exposed to nonasbestiform ATA will be covered by various dust limits in OSHA's Air Contaminant Standards (29 CFR 1910.1000 and 29 CFR 1926.55). Those employees exposed to tremolitic talc, will be covered by the talc standard as well, for that fraction of their exposure which constitutes talc. Where exposure occurs to a mixture of substances the mixture formula in the Air Contaminant Standard applies. Therefore workers exposed to nonasbestiform ATA contaminated talc, the commercial product most likely to contain sizable amounts of nonasbestiform ATA, will be protected by several permissible exposure limits and hazard communication provisions.

The other industries where nonasbestiform ATA exposure occur are those where ATA are constituents of crushed rock and stone. At the time of the proposal, OSHA's contractor reported the following conclusions about the potential for exposure to nonasbestiform ATA in industries which consume crushed stone, sand, and gravel. "The occurrence of nonasbestiform tremolite, actinolite, and/or anthophyllite is erratic and unpredictable. However, when it does occur—even in significant quantities—it does not appear that construction or other activities which disrupt the minerals and produce dust result in airborne fiber levels which exceed OSHA's action level 0.1 f/cc. "(CONSAD report, Ex. 465 at 1.14). (In this example, particles of nonasbestiform ATA, which are greater than 5 microns in length and have aspect ratios greater than or equal to 3:1, are measured as "fibers/cc" as opposed to the example above where dust was measured on a gravimetric basis.)

No evidence was presented in the rulemaking which showed that workers will be exposed to airborne levels of nonasbestiform ATA during activities involving crushed rock or stone which significantly exceed CONSAD's estimate. Therefore, OSHA concludes that removing these workers from the protection of the asbestos standard will not result in a significant health risk to them because, even if workers were exposed to levels estimated by OSHA's contractor, there would likely be no significant risk.

The Agency acknowledges that certain public health organizations have recommended that OSHA continue to regulate nonasbestiform ATA under the asbestos standards. Thus, the American Thoracic Society (ATS) concluded that "(a)t present, the prudent public health policy course is to regard appropriately sized (non-asbestiform) tremolite "fibers" in sufficient exposure dose (concentration and duration), as capable of producing the recognized asbestos-related diseases, and they should be regulated accordingly. (Ex. 525 at 15). As discussed in detail in the section on mineralogy, OSHA continues to believe that fiber dimension is the most significant indicator of fiber pathology. However, there is insufficient evidence in the record to determine the parameters of "appropriately sized" tremolite particles. In addition the evidence which is available most likely associates fibers with dimensions common to asbestos populations with disease causing potential than particles found in nonasbestiform ATA populations. For example, the Stanton index particle of at least 8 μm in length and less than .25 μm in width, is rarely associated with nonasbestiform ATA particles, but is a common dimension for asbestos fibers.

NIOSH also recommends that OSHA continue to regulate nonasbestiform ATA under the asbestos standards. Its major rationale is similar to the ATS's, i.e. "NIOSH concludes for regulatory purposes that cleavage fragments of the appropriate aspect ratio and length from the nonasbestiform minerals should be considered as hazardous as fibers from the asbestiform minerals." (Tr. 5/9, p. 9). As stated above, OSHA does not believe that the current record provides an evidentiary basis to determine "the appropriate aspect ratio and length," for determining pathogenicity. Even if dimensional cut-offs were known for asbestos fibers, additional data do not support a standard for all ATA minerals based on fiber dimension alone. Available data show that asbestos containing dusts have much greater potency than non-asbestos containing dusts. Nor is there direct evidence showing fiber equivalency for asbestos and nonasbestiform ATA. NIOSH's additional concern is that by deregulating nonasbestiform ATA, OSHA will leave unprotected workers who may be exposed to asbestos, as a contaminant of a nonasbestiform mineral deposit or product to which they are exposed. (See Tr. 5/9, pp. 10–14). In this regard OSHA notes that available evidence indicates that significant contamination of nonasbestiform mineral deposits is identifiable and thus amenable to regulations under applicable asbestos standards.

Thus, OSHA does not believe that potential asbestos contamination of nonasbestos minerals, including nonasbestiform ATA, is sufficient reason to include such nonasbestiform minerals in the asbestos standard. If the presence of asbestos is known, it should be evaluated for extent and exposure potential. The definition of asbestos in the asbestos standards, and the counting criteria therein are sufficiently broad so as to cover all identifiable asbestos fibers. As discussed later in this document, OSHA has not changed these provisions. If an identification error is made, it is likely to be a false positive for asbestos rather than a false negative. Airborne exposure data in the record relating to naturally occurring asbestos as a contaminant, show that exposure potential is likely to be very low, even where asbestos is a major contaminant. (CONSAD study, Ex. 465)

Also, answering NIOSH's concerns, evidence in the record shows that differential analysis of mineral deposits and products can and is being performed using a variety of methods.

(See Langer, Tr. 5/11, pp. 225–227). Based on these considerations, OSHA does not believe that including nonasbestiform ATA in the asbestos standards in order to insure that asbestos contamination of nonasbestiform ATA deposits will not be ignored is necessary to protect employees exposed to mineral products where asbestos contamination is a possibility. In consequence of this decision ATA will be regulated as a PNOR at 5 mg/m^3 or 15 mg/m^3 because of physical irritation. Because a mixture of talc and nonasbestiform ATA has been shown to cause nonmalignant respiratory disease, the mixture formula clearly is applicable.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. *et. seq.*), and the regulations issued pursuant thereto (5 CFR part 1320), OSHA is required to submit the information collection requirements contained in its standards to the Office of Management and Budget (OMB) for review under section 3504(h) of the Act. However, in this final there are no information collection requirements.

Federalism

This document has been reviewed in accordance with Executive Order 12612, 52 FR 41685 (October 30, 1987), regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with States prior to taking any actions that would restrict actions only when there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt State laws with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act a State can avoid preemption only if it submits, and obtains Federal approval of a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan-States must, among other things, be at least as effective as the Federal standards in providing safe and healthful employment and places of employment.

To the extent that there are any State or regional peculiarities, States with occupational safety and health plans approved under Section 18 of the OSH Act would be able to develop their own State standards to deal with any special problems.

Those States which have elected to participate under Section 18 of the OSH Act would not be preempted by this final standard and would be able to deal with special, local conditions within the framework provided by this standard while ensuring that their standards are at least as effective as the Federal standard.

State Plans

The 23 States and 2 territories with their own OSHA-approved occupational safety and health plans must adopt a comparable standard (i.e. a standard which is at least as effective as the federal standard) within 6 months after the publication of a final standard for occupational exposure to nonasbestiform ATA or amend their existing standard if it is not "at least as effective" as the final federal standard. States with their own OSHA-approved occupational safety and health plans may also elect to be more protective than the federal standard. The states and territories with occupational safety and health state plans are Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, the Virgin Islands, Washington, and Wyoming. (In Connecticut and New York, the plan covers only State and local government employees.)

II. Pertinent Legal Authority

The primary purpose of the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) (The Act) is to assure, so far as possible safe and healthful working conditions for every American worker over the period of his or her working lifetime. One means prescribed by the Congress to achieve this goal is the mandate given to and the concomitant authority vested in, the Secretary of Labor to set mandatory safety and health standards. The Congress specifically mandated that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standards which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this section shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws. (Section 6(b)(5)).

Where appropriate, OSHA standards are required to include provisions for labels or other appropriate forms of warning to apprise employees of hazards, suitable protective equipment, exposure control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, appropriate medical examinations or other tests. These must be available at no cost to the employee (Section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for the enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c)).

Section 3(8) of the Act, 29 U.S.C. 652(8), defines an occupational safety and health standard as follows:

> A standard which requires condition, or the adoption or use of one or more practices, means, methods, operations or processes, reasonably necessary or appropriate to provide a safe or healthful employment and place of employment.

The Supreme Court has said that Section 3(8) must be applied to the issuance of a permanent standard to determine that it is reasonably necessary and appropriate to remedy a significant risk of material health impairment (*Industrial Union Department* v. *American Petroleum Institute*, 448 U.S. 607 (1980)). This "significant risk" determination constitutes a finding that, in the absence of the changes in practices mandated by the standard, the workplaces would be "unsafe" in the sense that workers would be threatened with a significant risk of harm. (Id. at 642).

The court indicated, however, that the significant risk determination is not a "mathematical straitjacket," and that "OSHA is not required to support its finding that significant risk exists with anything approaching certainty." The Court ruled that "a reviewing Court (is) to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge (and that) * * * the Agency is free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of over protection rather than under protection" (448 U.S. at 655).

The Court also stated that "while the Agency must support its finding that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based

largely on policy considerations" (488 U.S. at 655, n.62). It is in the Agency's burden to make this showing, based on substantial evidence that it is at least more likely than not that such a substantial risk exists.

After OSHA has determined that significant risk exists and that such risk can be reduced or eliminated by the proposed standard, it must set the standard "which most adequately assures, to the extent feasible on the basis of the best available evidence, that no employees will suffer material impairment of health" (section 6(b)(5) of the Act). The Supreme Court has interpreted this section to mean that when adopted an OSHA standard must be the most protective possible to eliminate significant impairment of health, subject to the constraints of technological and economic feasibility (*American Textile Manufacturers Institute, Inc.* v. *Donovan*, 452 U.S. 490 (1981)).

In addition, section 4(b)(2) of the Act provides that OSHA's general industry standards would apply to construction and other workplaces where the Assistant Secretary has determined those standards are more effective than the standard which would otherwise apply.

In this document, OSHA is amending the revised standards for Asbestos (29 CFR 1910.1001 and 1926.58) to remove nonasbestiform ATA from their scope. The basis for this decision is the Agency's determination that the available evidence is insufficient to conclude that nonasbestiform ATA present the same type or magnitude of health effect as asbestos.

The inclusion of the nonasbestiform minerals under the 1972 standard was based on the Agency's view that nonasbestiform ATA likely subjected exposed employees to a significant risk of asbestos related disease and in the same way as asbestos. Additional evidence and evaluations which have been submitted to OSHA led to a reassessment of OSHA's views.

The Supreme Court in *Motor Vehicle Manufacturers Association* v. *State Farm Mutual Automobile Insurance Co.* (State Farm), (463 U.S. 29, 1983) held that "an Agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance * * *" 463 U.S. at 42. OSHA has previously stated the approach it will follow in raising or eliminating exposure limits in two places. Those are in its reconsideration for the exposure to cotton dust in the nontextile sector at 50 FR 51132–3, October 12, 1985 and in its Air Contaminants Final Rule (54 FR 2698), January 19, 1989.

The evidence must indicate that significant risk is unlikely to exist as a result of the change in the regulation. OSHA's final action in this rulemaking is based on the direction of the Supreme Court in State Farm and is consistent with OSHA's previous approach.

Also, the Supreme Court in its State Farm decision held that recision of a rule is arbitrary if, inter alia the Agency does not consider an important aspect of the problem (463 U.S. at 43). The Court held that an essential component of reasoned decisionmaking requires discussing why alternative ways of achieving the objectives of the Act cannot be adopted. OSHA believes that here it must consider such regulatory alternatives presented by its review of the record, or which are suggested by participants who show the significant benefit and feasibility of such recommendations.

Significance of Risk for Nonasbestiform-ATA

OSHA is empowered to regulate exposure to toxic substances where substantial evidence shows the existence of a significant risk of material impairment. For asbestos, OSHA has found that a lifetime excess cancer risk of 6.7 per thousand and a lifetime asbestosis risk of 5 cases per thousand are correlated with asbestos exposure at the 1986 time-weighted average PEL of 0.2 f/cc and that a still significant risk exists at that level.

OSHA's 1986 risk assessment for asbestos, which was upheld by the United States Court of Appeals for the District of Columbia Circuit, was based on the results of a large number of epidemiologic studies which evaluated human cohorts which were undisputedly exposed to asbestos. For lung cancer, OSHA looked at eight studies which contained good data for the calculation of the dose-response relationship for lung cancer, and six studies to calculate the dose-response relationship for mesothelioma OSHA's evaluation of these studies indicated that the potency coefficients of lung cancer appeared lower where airborne fibers are relatively coarse, than in certain manufacturing operations where the fibers are fine (See 51 FR at 22623).

OSHA did not use the results of any study involving worker exposure to nonasbestiform ATA in its asbestos risk assessment. In determining to include ATA in its 1986 asbestos standards the Agency reasoned that the chemical and structural similarities in varieties of the same minerals allowed a presumption of similar risk, so long as OSHA's fiber definition corresponded to dimensions likely to be carcinogenic. Confirming evidence of similar risk consisted of epidemiologic studies of tremolitic talc miners which showed excess lung cancer and other asbestos related disease. However, at the time, OSHA acknowledged that the studies, although showing positive results, were inconclusive in that the studies did not prove a causal relationship between the mineral exposure and cancer (51 FR 22631).

Thus, the primary basis for including the nonasbestiform varieties of ATA in OSHA's asbestos standards was the Agency's belief that fiber populations with similar "index" fiber counts, presented essentially the same risk, regardless of whether those "index" fibers were strictly asbestos in the mineralogical sense. Dimensions of the "index" fiber in the asbestos standards was a length of at least 5 micrometers with a 3:1 or greater aspect ratio. OSHA believed that the primary determinant of biological activity of asbestos is fiber dimension, and that varieties of asbestos minerals of relevant dimension have the same carcinogenic and fibrogenic potential per fiber. (See 51 FR at 22638).

This determination was the practical equivalent of a qualitative risk assessment for ATA. Given the chemical and structural similarities between nonasbestiform and asbestiform ATA, OSHA determined that similar regulation of both varieties was warranted, so long as dimensionally appropriate fibers were counted.

This decision squarely fit OSHA's mainstream authority to regulate less known substances based on extrapolation from evidence of known related carcinogens. OSHA believed that the Agency was not required to demonstrate the toxicity of each chemical it seeks to regulate through studies demonstrating a clear line of causation. (See *Environmental Defense Fund* v. *E.P.A.*, 598 F.2d 62(C.A.D.C. 1978). OSHA's decision to regulate like asbestos the closely related non-asbestiform varieties of three asbestos minerals was not the first time that OSHA or other regulatory agencies had regulated closely related substances based primarily on evidence relating to the more known variant. In its arsenic standard OSHA had treated pentavalent arsenic as presenting the same health risk as trivalent arsenic, which was conclusively carcinogenic. OSHA based its decision on evidence consisting of studies which demonstrated positive mutagenic and genetic effects by both

trivalent and pentavalent varieties and two positive epidemiologic studies of pentavalent arsenic. A negative study of pentavalent arsenic was rejected by OSHA for problematic exposure description and small numbers of workers studied. OSHA determined that substantial evidence existed to consider both forms of arsenic carcinogenic, and regulated them under the same standard. (43 FR 19584.) This was upheld in *ASARCO* v. *OSHA*, 746 F2d. 483, (4th Circuit, 1984).

Similarly, EPA has regulated less chlorinated PCBs as carcinogens based on extrapolations from data concerning more chlorinated PCBs, which undisputedly showed carcinogenicity. Confirming evidence consisted of some positive in vivo and in vitro tests for the less chlorinated variety. (*EDF* v. *EPA*, supra).

Thus, OSHA and other agencies have based risk assessments for one substance on the quantitative data relating to a related substance if substantial data in the record support the equivalency of risk in a qualitative way, even though dose-response data allowing a separate risk assessment are not available. For example, in the PCB case, positive *in vivo* and *in vitro* studies showed excess risk of about the same magnitude. In the arsenic case, positive epidemiologic and animal data of the less studied substance, corresponded to risk estimates for the more studied variant. Further in both cases, the biological relationship was based on the same factors as the assumed toxic mechanisms.

In this rulemaking, OSHA has reopened the issue of whether nonasbestiform ATA should be regulated like asbestos based on its similarity to the known carcinogen. The evidence submitted to this record includes, in the Agency's view, virtually all relevant data and comment existing on this issue, much of which was not previously considered by the Agency. OSHA has examined this record to evaluate whether the risk of the nonasbestiform varieties of ATA can be derived by analogy to asbestos. After a review of this greatly enhanced record, OSHA has reversed its decision of 1986, and determined that there is insufficient evidence to regulate nonasbestiform ATA primarily by extrapolation from data relating to asbestos. Reliable confirming evidence is lacking; animal experimental evidence either shows no or greatly reduced effect for nonasbestiform ATA, epidemiologic evidence relating to nonasbestiform ATA is inconclusive and/or flawed, and dimensional hypotheses of carcinogenicity appear to offer only partial explanations, and in any event are too imprecise for regulatory use. Thus, the record does not contain substantial evidence to support a determination that nonasbestiform ATA presents a health risk similar to asbestos, based primarily on extrapolation from evidence relating to asbestos.

As further discussed in the Health Effects section, below, OSHA has also determined that substantial evidence is lacking in this record to support the regulation of nonasbestiform ATA in the asbestos standards or in a separate health standard based on a separate risk assessment which shows that these mineral forms present the same kind and extent of risk as asbestos, or a lesser but still significant risk to exposed employees greater than the risk caused by particulates not otherwise regulated.

III. Regulatory History

OSHA first regulated asbestos in 1971 when, under authority of section 6(a) of the Occupational Safety and Health Act, it adopted the existing Federal standard for asbestos under the Walsh-Healey Public Contracts Act (29 CFR 1910.93, Table G–3 (36 FR 10466, May 29, 1971). The standard consisted of a permissible exposure limit listed in Table G–3 "Mine Dusts". The Walsh-Healey standard for tremolite was also adopted and separately listed in Table G–3.

Following an emergency temporary standard (ETS) for exposure to "asbestos dust" in 1971 (36 FR 23207, December 7, 1971), OSHA conducted rulemaking and issued a permanent standard under section 6(b) of the OSH Act, which regulated occupational exposure to asbestos. The standard defined asbestos as chrysotile, crocidolite, amosite, tremolite, anthophyllite, and actinolite (29 CFR 1910.93a (later renumbered as § 1910.1001); 37 FR 11318, June 7, 1972). The 1972 standard regulated only fibers longer than 5 micrometers, measured by phase contrast illumination (37 FR 11318, 29 CFR 1910.1001 (1985)). Also at that time, OSHA deleted the entry for tremolite in Table G–3.

On October 18, 1972, OSHA made clarifying revisions to Table G–3. The existing permissible exposure limit for "talc" was explained to apply only to "non-asbestos form" talc, while new entries for "fibrous talc" and tremolite instructed readers to use the permissible limit for asbestos (37 FR 22102, 22142).

All major provisions of the standard which were initially challenged were upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Industrial Union Department, AFL–CIO* v. *Hodgson*, 499 F.2d 467 (1974).

Because the 1972 standard did not distinguish between asbestiform and nonasbestiform ATA, OSHA began to inspect employers whose employees were exposed to either mineralogic variety.

One supplier of industrial talc containing non-asbestiform anthophyllite and tremolite (the R.T. Vanderbilt Company) petitioned OSHA to restrict the application of the 1972 standard so that nonasbestiform anthophyllite and tremolite would not be covered by it. In October 1974 OSHA interpreted the applicability of the asbestos standard to mean only asbestiform termolite with and aspect ratio of 5 to 1 (Letter from OSHA Assistant Secretary John Stender to R.T. Vanderbilt Company, August 6, 1974; OSHA Field Information Memorandum (FIM) # 74–92, Novermber 21, 1974 (Ex. 411)). However, because of preliminary information received from NIOSH regarding medical evaluations of workers exposed to tremolitic talc, FIM # 74–92 was canceled on January 4, 1977 (Ex. 412). OSHA reverted to its regulatory definition of asbestos, which included all termolite fibers, whether asbestiform or nonasbestiform.

In 1975 OSHA proposed to reduce the PEL and otherwise revise and tighten the asbestos standard to protect employees against carcinogenic effects of asbestos (40 FR 47652, October 9, 1975). No change was proposed concerning the six minerals defined as asbestos, but OSHA proposed to define "asbestos fiber" as a "particulate" instead of a "fiber" so as to stress its "morphology and toxicity * * * rather than its geologic or mineralogic origin." (40 FR 46758). It also proposed to add a three to one aspect ratio and a five micrometer maximum diameter to the definition of fiber in recognition of fiber respirability and the ACGIH recommended methods for fiber sampling and counting using phase contrast microscopy. No hearings were held on this proposal.

In 1983 OSHA issued an Emergency Temporary Standard (ETS) for asbestos, lowering the permissible exposure limit from 2 fibers per cubic centimeter (2 f/cc) to 0.5 f/cc (48 FR 51086, November 4, 1983). In the preamble to the ETS, which also constituted a proposal for a revised permanent standard, OSHA raised the possibility of revising the definition of "asbestos" and "asbestos fiber" and included an extensive discussion of the relative carcinogenicity and toxicity of different fibers (48 FR 51110–51121). As with the 1972 standard, OSHA

concluded there was no basis to regulate fiber types differently (48 FR 51110). The ETS itself was vacated by the Fifth Circuit Court of Appeals on March 7, 1984 for reasons not related to the issue of the mineralogical definition of asbestos.

In its supplemental proposed rule (49 FR 11416, April 10, 1984), OSHA said it was considering a revision of its definition of asbestos to conform to the practice of other federal agencies (the Mine Safety and Health Administration, the Consumer Product Safety Commission, the Environmental Protection Agency, and the Department of Education) which regulated only mineralogically correct "asbestos". The definition under consideration would include only the asbestiform varieties of the six covered minerals. However, OSHA noted that health evidence existed implicating nonasbestiform minerals in the production of asbestos-related disease; that morphology may be a significant causative factor; and that the Agency would examine all relevant evidence before its final decision on coverage (51 FR 14122).

Several parties addressed the issue in written comments and in oral testimony during the rulemaking. A primary proponent of including only a "mineralogically correct" definition of asbestos was the R.T. Vanderbilt Company, a miner and producer of tremolitic talc (See generally Ex. 337). Vanderbilt claimed that health studies at its mine and mill do not show the presence of asbestos-related disease; and that therefore its products should not be regulated with the same stringency as asbestos. Other participants also supported limiting coverage to "mineralogically" defined asbestos (See e.g. 90–3 and 90–143).

Other commentors opposed excluding nonasbestiform tremolite, anthophyllite, and actinolite from the scope of the standard. Public Citizen Health Research Group (Ex. 122; Tr. June 22, pp. 51–52) and the United Brotherhood of Carpenters and Joiners of America (Tr. June 28, pp. 168–172) contended that a revised asbestos standard should include these minerals because of their asbestos-like health effects. Their comments in part were based on findings of the NIOSH studies of upstate New York talc miners and millers, working at Vanderbilt which found an excess of respiratory disease.

OSHA's final standards (29 CFR 1910.1001 and 1926.58) define "asbestos" as "chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these materials that has been chemically treated or altered" (29 CFR 1910.1001(b); 29 CFR 1926.58(b)). However, these standards also regulate the nonasbestiform varieties of tremolite, anthophyllite, and actinolite. Only "fibers" of these materials are regulated; fibers are defined as particles of the covered materials which are five micrometers or longer with an aspect ratio of at least 3 to 1. These nonasbestiform "fibers" were regulated because OSHA determined that there was substantial evidence to support protection under the revised asbestos standards for workers exposed to nonasbestiform tremolite, anthophyllite and actinolite (51 FR 22631). OSHA, however, did not separately analyze the economic and technological feasibility of the revised provisions in industries using the nonasbestiform minerals.

Following issuance of the standards, a number of parties filed petitions in the Second, Fifth, and District of Columbia Circuit Courts of Appeals for review of the standards under section 6(f) of the OSH Act based on broad challenges to the standard's validity. On June 20, 1986, the R.T. Vanderbilt Company requested an administrative stay of the standard pending judicial review based on its claim that OSHA improperly included nonasbestiform minerals (Ex. 403). This request was denied on July 9, 1986 in a letter from OSHA Assistant Secretary John Pendergrass (Ex. 404). Vanderbilt also filed a stay motion in the United States Court of Appeals for the Second Circuit (Ex. 502). The National Stone Association (NSA) and Vulcan Materials Company, nonparticipants in the rulemaking, also requested a stay of the standards on July 11, 1986 insofar as they applied to tremolite and actinolite exposure from the use of crushed stone in construction (Ex. 406 & 407). In their request for a stay, the NSA claimed that the technological and economic impacts of the new standard on users of crushed stone in the construction industry was never considered in the rulemaking. It alleged severe adverse impacts on the industry and the public as the result of applying the new standard to crushed stone.

Vanderbilt requested OSHA to reconsider its denial of an administrative stay on July 24, 1986 (Ex. 416). Court papers filed by Vanderbilt brought to OSHA's attention internal memoranda from three NIOSH scientists which disputed OSHA's regulatory treatment of nonasbestiform tremolite, anthophyllite and actinolite. Dr. Donald Millar, the Director of NIOSH, wrote to OSHA on July 17, 1986 to reaffirm NIOSH's support for OSHA's positions in the final standards (Ex. 408). On July 18, 1986, OSHA granted a temporary stay insofar as the standards applied to nonasbestiform tremolite, anthophyllite and actinolite (51 FR 37002). OSHA said it was granting the stay in part to enable the agency to review Dr. Millar's letter, the NIOSH memoranda, the submissions of Vanderbilt and various trade associations, and to conduct supplemental rulemaking on whether nonasbestiform tremolite, anthophyllite and actinolite should be regulated in the same manner as asbestos and the feasibility of regulating the affected industries. The stay was extended to July 21, 1988 (52 FR 15722) and thereafter (53 FR 27345), (54 FR 30704) and (56 FR 43699) in order to complete rulemaking. The current stay expires May 30, 1992.

Pursuant to the stay and its extension, the standard, covering tremolite, anthophyllite, and actinolite were to remain in effect as they had applied to minerals under the previous standard. The 1972 standard was republished as 29 CFR 1910.1101 (1987).

On February 12, 1990 OSHA published a Notice of Proposed Rulemaking (NPRM) in which the Agency proposed to remove nonasbestiform tremolite, anthophyllite and actinolite from the scope of the revised standards for Asbestos. At that time OSHA also presented and requested comment on various alternatives for regulating nonasbestiform ATA.

Public hearings on the proposed standard were held in Washington, DC May 8–14, 1990, to provide interested parties and the public with the opportunity to comment on the proposed action. Post hearing submissions of data, comments, and briefs were received through July 23, 1990.

After the close of the post hearing briefing comment periods, the American Thoracic Society (ATS) submitted a report to the record concerning the health risks of nonasbestiform tremolite (Ex. 525). The Agency set an additional period, later extended to December 14, 1990 to enable the public to submit written comments and analyses on all issues raised by the ATS report. In order to review comments on this document, as well as the entire rulemaking record, the Administration Stay was extended to February 28, 1992 (56 FR 43699) and again to May 30, 1992 (57 FR 7877).

The record of the public hearing contains the original transcript of the hearing, which incorporated the record as a whole and exhibit numbers 505 to 553. Copies of the materials contained in the record may be obtained from the OSHA Docket Office, room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The Docket Office is open to the public

from 10 a.m. to 4 p.m. Monday through Friday except Federal Holidays.

The final decision on the occupational exposure to nonasbestiform ATA is based on full consideration of the entire record of this proceeding, including material discussed or relied upon in the proposal, the record of the informal hearing, and all comments and exhibits received.

IV. Mineralogical Considerations

The following is a discussion of the mineralogical evidence submitted to this record concerning defining and differentiating the types of minerals commonly designated as "asbestos", "asbestiform" and "nonasbestiform". OSHA's position, expressed in the proposal and in the 1986 standards, was that precise mineralogic definitions are helpful in describing the scope of the standard, but absent strong evidence that mineralogic distinctions are biologically relevant, such distinctions by themselves, should not dictate regulatory health based decisions. In the 1986 standards, OSHA defined "asbestos" and "nonasbestiform ATA" separately, but covered both varieties based on health effects evidence.

Much evidence and testimony in this proceeding related to the extent to which different mineral varieties can be distinguished. OSHA's overall regulatory approach to this issue is shaped by its mandate to protect employee health, and to err on the side of protection when presented with a close scientific question. The Agency believes that mere difficulties in differentiating between these mineral varieties should not dictate uniform regulatory treatment, unless such difficulties reflect the fact that the varieties, in biologically relevant respects, behave the same. Of course, misidentification of mineral type affects the confidence in and usefulness of studies reporting the biological potential of different mineral types. Also, the extent of analytical difficulty in distinguishing even well characterized mineral types, would be relevant to OSHA in making feasibility determinations concerning analytic methods.

In general there was agreement concerning the broad definitions of these mineral classifications. Thus, asbestos is not a precisely defined chemical compound, but rather, a collective term given to a group of similar silicate minerals having commercial significance. Historically six silicate minerals have made up the group of minerals which has been collectively referred to as Asbestos. These six minerals are chrysotile, crocidolite, amosite (which is mineralogically known as cummingtonite-grunerite asbestos), tremolite asbestos, anthophyllite asbestos, and actinolite asbestos. Chrysotile belongs to the family of minerals called serpentine minerals. The remaining five minerals belong to the family of minerals called amphiboles.

Dr. Arthur Langer pointed out in his testimony and comments to OSHA, that the definition of asbestos is comprised of a mineralogical definition and an economic geology definition. Langer states:

> Asbestos is described in the mineralogical literature as several silicate minerals with the following characteristics: Minerals occurring in nature as fibers; Fibers are bundles composed of "hair-like" (filiform) fibrils, each with a high length-to-width ratio; Fiber bundles are polyfilamentous and the fibril strands may be easily separated by hand. Unit fibrils cannot be resolved by [the] unaided eye; In addition to the mineralogical criteria, the economic geology literature contains additional descriptive terms, mostly pertaining to properties exhibited by asbestos which render it useful in commerce. Among these are: fibers exhibit stability in acids and alkalies; act as electrical insulators; act as thermal insulators; fibers are highly flexible and can be woven into asbestos cloth or rope; fibers possess diameter dependent high tensile strength. Together, both geological disciplines have defined what asbestos is mineralogically. (Ex. 517, Tab 5)

Dr. Ann Wylie, testified that "Asbestos is a commercial term applied to a group of highly fibrous silicate minerals that readily separate into long, thin, strong fibers of sufficient flexibility to be woven, are heat resistant and chemically inert, and possess a high electical insulation and therefore are suitable for uses where incombustible, nonconducting, or chemically resistant material is required." (Ex. 479–23).

Similarly, the Bureau of Mines stated in comments to the NPRM that a correct mineralogical definition of asbestos was:

> A term applied to six naturally occurring serpentine- and amphibole- group minerals that are exploited commercially because they crystallize into long, thin, flexible fibers that are easily separable when crushed or processed, can be woven, are resistant to heat and chemical attack, and are good electrical insulators. The six serpentine- and amphibole-group minerals commonly referred to as asbestos are chrysotile, cummingtonite-grunerite asbestos (amosite), riebeckite asbestos (crocidolite), anthophyllite asbestos, tremolite asbestos, and actinolite asbestos (Ex. 478–6).

The above minerals which are collectively termed asbestos, are also described as being asbestiform. Asbestiform is a mineralogical term describing a particular mineral habit. The habit of a mineral is the shape or form a crystal or aggregate of crystals take on during crystallization and is dependent on the existing environmental/geological conditions at the time of formation. The National Stone Association (NSA) and the American Mining Congress (AMC) state that, "The asbestiform habit can be defined as a habit where mineral crystals grow in a single dimension, in a straight line until they form long, thread-like fibers with aspect ratios of 20:1 to 100:1 and higher. When pressure is applied, the fibers do not shatter but simply bend much like a wire. Fibrils of a smaller diameter are produced as bundles of fibers are pulled apart. This bundling effect is referred to as polyfilamentous." (Ex. 467) Dr. Wylie testified that the asbestiform habit can be recognized by certain characteristics using light microscopy. For example she testified that:

> Populations of asbestiform fibers, and this would include all, not just commercial asbestos, but all asbestiform fibers that I have looked at, they have mean aspect ratios greater than twenty to one for particles longer than five microns—and again, it's very important that we qualify, when speaking of aspect ratio, length, because aspect ratio by itself as a population characteristic has no meaning—very thin fibrils that are usually less than half a micrometer in width. And you will see in any population of asbestiform fiber[s] at least two of the following characteristics. Normally they are all present, but two, I think is enough to convince me. Parallel fibers occurring in bundles, fibers displaying splayed ends, the matted masses of individual fibers, and fibers showing curvature. (Tr. 5/9, p. 92)

However Dr. Wylie emphasized that these are characteristics which apply to populations of asbestiform fibers and not a particular particle. She states that "The characteristics that were listed were population characteristics, not characteristics on a fiber by fiber discriminator. They weren't meant to say a particular particle must meet all these criteria in order to say that this is an asbestos particle or population present. And that's the way that definition is approached that if we have a bulk sample, and we are looking in that sample for the presence of—asbestos," (Tr. 5/8, p. 144)

In further clarification of the asbestiform habit Dr. Tibor Zoltai, a professor of mineralogy at the University of Minnesota, states that:

> The development of the asbestiform properties is a gradual process, (and) depends on the extent of the appropriate conditions of crystallization. Consequently, there are variable qualities of asbestiform fibers. The poor quality asbestiform fibers of

amphiboles are called byssolite, or brittle asbestos. The high quality asbestiform fibers because of their highly developed flexibility, strength and physical-chemical durability, constitute desirable industrial materials and are exploited under the generic term of asbestos. Although practically all amphiboles and most other minerals are known to occur in asbestiform habit, only a few amphiboles are known in sufficient concentration and quantity to produce commercial asbestos: * * * (Ex. 546).

Thus, asbestos is a collective term composed of both mineralogical and economic elements which has been used to refer to a specific set of asbestiform minerals which are, or were in the past, regarded as being commercially significant. The term asbestiform is a mineralogical term used to refer to those minerals which are found in a particular mineral habit. That is, while all asbestos is asbestiform, not all asbestiform minerals are asbestos.

As the above discussion shows, the term "asbestos" is based on more than mineralogic criteria, and its meaning also reflects to a certain extent the interests of the affected commercial communities. Nonasbestiform mineral varieties have a different commercial history. For the most part, they have had little commercial significance. This is related to their different crystallization habit. Because, unlike asbestos, they do not grow unidirectionally, into long thin fibers, therefore they often do not possess properties such as weavibility or high tensile strength which make them valuable for asbestos-like uses. For the most part nonasbestiform minerals are not mined for any special property, but rather, they are mined generally with other minerals as a basic stone product. However, nonasbestiform tremolite when mined with talc, results in enhanced usefulness to industries such as ceramic manufacturing, because of the other properties specific to nonasbestiform minerals.

The record makes clear, that from a mineralogic perspective the crystallization growth pattern of these minerals determines whether they develop as asbestos, or as nonasbestiform varieties. In joint comments to the record, the NSA and the AMC stated that "in the nonasbestiform variety crystal growth is random, forming multi-dimensional prismatic patterns. When pressure is applied, the crystal fractures easily, fragmenting into prismatic particles. Some of the particles or cleavage fragments are acicular or needle-shaped as a result of the tendency of amphibole minerals to cleave along two dimensions but not the third" (Ex. 467).

In his comments to the record, Dr. Zoltai notes that: Both asbestiform and nonasbestiform amphibole minerals have the same chemical composition and crystal structure. They are not distinguishable by instrumental analysis and x-ray diffraction. The difference between them is in their respective crystallization habit, that is, in their respective condition of crystallization. Nonasbestiform prismatic crystals are the common crystal habits of amphiboles. The asbestiform crystallization habit is the unusual one, it requires unique temperature and pressure conditions inducing unidirectional and rapid crystal growth. (Ex. 446)

In the NPRM, OSHA stated that unlike asbestiform minerals, nonasbestiform minerals do not separate into fibrils but, during processes such as mining, milling and/or processing can be broken down into fragments resulting from cleavage along the minerals two or three dimensional plane of growth. OSHA also stated that particles thus formed, are generally referred to as cleavage fragments and these fragments may occur in dimensions equal to asbestiform fibers.

Various commentors agreed with OSHA's definition of a cleavage fragment but objected to OSHA's characterization that nonasbestiform cleavage fragments and asbestiform fibers occur in similar dimensions. In testimony to OSHA, Kelly Bailey, an Industrial Hygienist with Vulcan Chemical Company speaking for the NSA stated:

The NSA believes that this statement is deliberately misleading in that it fails to take into account the population characteristics of both cleavage fragments and asbestiform fibers. It is true that there are some cleavage fragments that may have dimensions of 10:1, 20:1 or higher in aspect ratio when examined with PCM and that there may be a few asbestos fibers that have low aspect ratio dimensions similar to cleavage fragments; however, to imply that cleavage fragments do not differ from asbestiform fibers in an observable, dimensional way is poppycock! (Ex. 479–23).

Similarly, in earlier testimony to OSHA during the rulemaking for the 1986 revised standards, Dr. Wylie stated:

A particle of any mineral which is formed by regular breakage is called a cleavage fragment. Mineralogically, a fiber or fibril is a crystal which has attained its shape through growth, in contrast to a cleavage fragment which has attained its shape through regular breakage. The shape of amphibole cleavage fragments is somewhat variable depending upon the history of the mineral sample. Some amphiboles when crushed will produce a population of particles which may have the average aspect ratio of 5 to 1 or 6 to 1, whereas other amphibole samples when crushed may produce a population of particles whose aspect ratios average closer to 8 to 1 or 10 to 1. And in almost any population of amphibole cleavage fragments, it is possible to find a few particles whose aspect ratios may extend up to 20 to 1 or perhaps even higher. Amphibole asbestos populations, on the other hand, are characterized by aspect ratios which are considerably greater than this." (Ex. 230, Docket # H–033c).

Dr. Ann Wylie reiterated her earlier opinions in the current rulemaking stating:

Throughout OSHA's Notice of Proposed Rulemaking, they imply that cleavage fragments are similar in size to asbestos fibers, and the distinctions between them are fuzzy. In most cases, this is simply not so. Asbestos crystallizes from a fluid medium; growth takes place rapidly in one direction; the chemical makeup of the fluid may inhibit growth laterally. * * * These fibrils are single or twin crystals and they have very, very narrow widths and long lengths. It is the narrow width and long lengths that give asbestos flexibility and high tensile strength. Fibrils share a common axis of growth, but they are randomly [ar]ranged in the direction perpendicular to the fiber axis, and when disturbed, they are easily desegregated. Because their origin is different, population of cleavage fragments and fibers of the same minerals are simply different. Dr. Wylie adds that: While there may be some cleavage fragments that cannot be distinguished from asbestos solely on dimensions, and there are some particles in asbestos samples that can't be distinguished from cleavage fragments, the populations are as wholes easily distinguishable. (Tr. 5/9, pp. 102–103)

As evidence of these differences Dr. Wylie cited to her paper entitled "An Analysis of the Aspect Ratio Criterion for Fiber Counting". Dr. Wylie testified:

As a part of the record, I have prepared a paper entitled "An Analysis of the Aspect Ratio Criterion for Fiber Counting: and that is part of OSHA's record. The paper reviews the distribution of aspect ratio for fiber and fiber bundles of amosite, crocidolite, chrysotile, and they clearly show that for those fibers and fiber bundles, again, that are longer than five micrometers, 100 percent or close to it, have aspect ratios greater than ten to one, and in every population that I have ever looked at that has the asbestiform habit, more than 50 percent have aspect ratios in excess of twenty to one * * * but most of them are 90 percent.

Also included in that paper are data from bulk and airborne samples of cleavage fragments, and there are cleavage fragments [with] aspect ratios greater than ten to one, and there are some that have aspect ratio[s] greater than twenty to one, but they are in much lower abundance, as a population. (Tr. 5/9, pp. 94–95)

While Dr. Wylie notes that there are differences in the distribution of aspect ratios when one looks at populations of asbestos fibers and nonasbestiform cleavage fragments, she also states that

"aspect ratio is a dimensionless parameter" and "* * * it lacks information about the size particles; it only describes shape." (Tr. 5/9, p. 95). Rather than aspect ratio, Dr. Wylie stressed that "width is a much more fundamental parameter of asbestos fibers, and perhaps will shed some light on how we tell particles that are elongated, whether they are cleavage fragments, or whether they are asbestos." (Tr. 5/9, p. 95).

To illustrate this point Dr. Wylie presented data in her testimony on the widths of various populations of asbestos fibers and nonasbestiform cleavage fragments from both bulk and airborne data (Transcripts, May 9, pp. 2–95 to 2–98). This data showed that in the populations of asbestos fibers she studied, the majority of fibers had widths less than one micrometer. For example, 85–90% of the crocidolite fibers she studied had widths less than one micrometer and 60% had widths less than 0.5 micrometers. In amosite samples, greater than 90% had widths less than one micrometer and 75% had widths less than 0.5 micrometers. In tremolite asbestos samples, 85–95% of the fibers had widths less than one micrometer and 75% had widths less than 0.5 micrometers. Wylie stated that when looking at these fiber populations "* * * it really doesn't make any difference, much, whether you look at particles longer than five micrometers, or all particles in a population, when you look at width. Because of the nature of asbestos, width changes very little as length increases, * * *" (Transcripts May 9, p. 2–96). Dr. Wylie acknowledged, however, that asbestos fiber bundles may have widths greater than one micrometer, but she added that even in these cases the majority of particles are less than one micrometer.

Dr. Wylie was criticized for inconsistencies in her comparative population: i.e., sometimes using all fibers, other times citing only those exceeding certain dimensions, e.g. longer than 5 micrometers. Dr. Wylie agreed that, "depending upon which of those qualifiers you put forth, you get vastly different datasets. Now, I took all my cleavage fragment data and I first looked at the particles that are longer than five micrometers, and of these—I'm just going to use a ten to one as aspect ratio—11 percent have aspect ratios greater than ten to one. If we look at that dataset * * * and only at the particles that have aspect ratios greater than three to one * * * and are longer than five micrometers, then we would say its six percent are longer than five micrometers and have aspect ratios greater than ten to one. And finally if we look at particles that are both longer than five micrometers, and have an aspect ratio greater than three to one, we have 19 percent with aspect ratios greater than ten to one." (Tr. 5/9 at 106–107).

The record contains some additional, but less comprehensive evidence on comparative dimensions of nonasbestiform cleavage fragments and their asbestiform analogues. For example, in 1979, the Bureau of Mines compared 8 samples of ground tremolite of varying habit. It concluded that "based on this limited study, there is a relationship between the number of particles of 'critical' dimensions, >10 μm in length and <0.5 μm in width, and the habit of the tremolite-actinolite prior to grinding. * * * Only the asbestos variety gave long, thin particles of the dimensions established by some medical scientists as necessary to produce adverse biological effects in laboratory animals." (See RI 8367, p. 17 as part of the NIOSH pre hearing submission Ex. 478–15)

A critical dimensional distinction between asbestiform fibers and ATA appears to be their widths. Thus, Dr. Wylie stated that her analyses of width show that "About 80 percent of the amphibole cleavage fragments longer than five micrometers, have widths greater than one micron, and none have widths less than 0.25." (Tr. 5/9, p. 98)

Dr. Wylie also pointed out how the width of asbestos fibers will influence their aspect ratio. She states that "the mean width of asbestos fibers is less than half a micron, and if you have five micrometer particles, you have to have an aspect ratio of at least 10 to 1." (Tr. 5/9, p. 101–102). Moreover in her comments to NPRM she states that "while low aspect ratio fiber (or fiber bundles) are present in asbestos populations, they are characteristic of short asbestos fibers * * *. Since the mean width of asbestos fibers is less than 0.5 micrometers, the mean aspect ratio of a 5 micrometer fiber is about 10:1." (Ex. 479–23).

Dr. R.J. Lee, a microscopist and mineralogist with R.J. Associates, also noted the importance of width in distinguishing asbestos fibers from nonasbestiform cleavage fragments. Dr. Lee testified the following:

> First asbestos—airborne asbestos is less than one micrometer in diameter, unless it's present as bundles or cluster, which exhibit the characteristic fibrillar structure of asbestos, or as Dr. Wylie indicated, the hallmark of asbestos. Asbestos larger than a half a micron is a bundle—.
>
> Second, nonasbestos particles longer than five micrometers in length are generally [more] than one micrometer in diameter, and only rarely less than half a micrometer in diameter. When larger than one mocrometer in diameter, they do not exhibit the fibrillar structure of asbestos. (Tr. 5/9, pp. 114–115).

Similarly in their joint comments to the record the NSA and the AMC stated the following observations about particle width:

> Due to the straight line fibrillar crystal growth of asbestos, the width of an asbestos fiber is essentially independent of its length and is not easily altered by processing. In contrast, cleavage fragment populations show increasing width as particle length increases due to the characteristics imparted from normal three dimensional crystal growth. The result of this difference is cleavage fragments with widths rarely less than 0.5 micrometer and almost never less than 0.25 micrometer. Asbestos tends to show a high proportion of fibers less than 0.25 micrometer in width. (Ex. 467)

Dr. Charles Spooner, a microscopist and mineralogist with Charles Spooner and Associates Inc., concurred in his testimony that asbestos fibrils have widths less than 1 micrometer and that most cleavage fragments have low aspect ratio (Tr. 5/8, pp. 120–121). However he also noted that cleavage fragments may also have high aspect ratios. Dr. Spooner stated that "In the universe of amphibole cleavage fragments it seems likely that a greater proportion will exist as more or less equant bodies, however, there will be those instances where high aspect ratio respirable cleavage fragments will be generated upon crushing of the amphibole bearing rock." (Ex. 512).

As noted earlier in this discussion, Dr. Wylie acknowledged that one may find a few cleavage fragments with high aspect ratios, but she added that populations of asbestos fibers and cleavage fragments, as a whole, are distinguishable from one another. However, Dr. Spooner points out that "* * * from the industrial hygiene perspective, very often we are dealing with air samples. We are looking at an airborne fiber and trying to assess its respirability. And again, we are often in the industrial hygiene setting, we don't have the opportunity to know where the material is coming from, nor do we have the opportunity to look at a very large population of fibers * * *" (Tr. 5/8, pp. 117–118). Thus OSHA believes that while one can differentiate between mineral types when populations of particles are examined, when single, isolated particles are examined (e.g. particles from air samples) the ability to differentiate may become more difficult.

In the NPRM OSHA stated that at the microscopic level, on a particle by

particle basis, differences in gross growth characteristics may not be readily observable. Similarly, Dr. Art Langer acknowledged that "* * * in some instances single, isolated particles may be impossible to distinguish, i.e. acicular cleavage fragment from asbestiform fibril" (Ex. 517, Tab 5). Dr. Langer also noted however that while there are some particles which defy mineralogical identification, the percentage of particles that comprise this group is a small percentage (Tr. 5/11, p. 230).

Identification of fibers is confounded by the existence of particles which do not fit a precise mineralogic definition. For example, some samples of industrial talc have been shown to contain "intermediate fibers." Dan Crane, a microscopist at OSHA's Salt Lake City Technical Center, describes these intermediate fibers which are found in industrial talc samples and notes that "It is only by a combined optical/electron optical approach can the nature of the intermediate fibers can be determined. Even at that, they defy definite description." (Ex. 410–23). Mr. Crane goes on to explain that:

> When one looks at the industrial talcs in the microscope, he sees large numbers of particles that are much longer than 20 to 1 even to nearly 100 to 1 in aspect ratio. The first reaction is to say these are the asbestos fibers of tremolite and anthophyllite indicated by the known presence of those minerals in the products. Unfortunately, this is a false assumption. They are for the most part fibers of industrial talc. They have been dubbed intermediates by us, as talcboles by Malcom Ross and fibrous biopyriboles by David Veblan. What they are not is anthophyllite or tremolite. (Ex. 410–23)

In his description of these intermediate fibers Crane notes that examining these particles by light microscopy (e.g. using indices of refraction and dispersion oils) one would not call these particles anthophyllite. However, when one uses electron microscopy one would conclude that these particles are indeed anthophyllite. Mr. Crane explains why this difference occurs:

> The fault can be corrected when the analyst realizes that in this particular mineral, the deposit *was* anthophyllite at one time. The particular mechanics of this are beyond the scope of this letter. Suffice it to say that it is being done in such a way as to leave the more major structure of the anthophyllite fibers intact while transforming them to talc. This residual structure has given rise to electron diffraction patterns that mimic amphibole patterns. Very careful measurement and calibration of these patterns reveal subtle strains in the structure leading to a mineral with similar features to talc and to anthophyllite and yet the numbers fall in between. * * * I have described these other fibers because they are the fibers with the closest morphological similarity to asbestos. They do have splintering and bundle of sticks and frayed ends as characteristics. These are characteristics which we often ascribe to truly asbestiform minerals. All the samples we have examined have been crushed prior to our receiving them. Therefore, we cannot say whether they grew in nature as asbestos fibers. They do look like asbestos and if morphology is the major role in toxicity or carcinogenicity these should be considered more important tha[n] the non-fibrous cleavage fragments of tremolite and anthophyllite. (Ex. 410–23)

Dr. Arthur Langer, in his testimony, also discussed the difficulties in identifying these intermediate fibers. He stated that:

> * * * some of us might call this a pyrobole, pyroxene and amphibole. This has also been described in various deposits, and you're going to ask me about the Vanderbilt talc deposit. That's fine because they're intergro[wthes] like this in the Vanderbilt talc deposit. These are the complex fibers that we have talked about that defy mineralogical classification. (Ex. Tr. 5/11, pp. 170)

The significance of "intermediate" or "transitional" fibers was also addressed by Dr. Langer, who stated that OSHA's major question should be "how common are they in the work place?" and answered "I don't think they're terribly common in the work place. They are only described in certain specific locales." (Tr. 5/11, p. 219).

OSHA notes that even those mineralogists who contend that asbestos is a separate mineral entity from nonasbestiform ATA, agree that intermediate forms exist. Dr. Tibor Zoltai, Professor of Geology at the University of Minnesota, explained that "* * * (T)he development of asbestiform properties is a gradual process, (and) depends on the extent of the appropriate conditions of crystallization. Consequently, there are variable qualities of asbestiform fibers. The poor quality asbestiform fibers of amphiboles are called byssolite, or brittle asbestos. The high quality asbestiform fibers, because of their highly developed flexibility, strength and physical-chemical durability, constitute desirable industrial materials and are exploited under the generic term of asbestos." (Ex. 546). Dr. Langer testified that based on Dr. Wylie's work, it is known that byssolite is not composed of unit fibrils. "So we would not classify byssolite as an asbestos mineral. Now some people consider this as a transition kind of mineral in characteristics." (Tr 5/11 at 518) Other mineral forms exist which are intermediate between anthophyllite and talc, as discussed above.

In summary, the discussion indicates that populations of fibers and populations of cleavage fragments can be distinguished from one another when viewed as a whole. For example one can look at the distribution of aspect ratios or even widths for a population of particles and can then generally identify that population of particles as being asbestiform or nonasbestiform. However when one looks at individual particles, (e.g. particles from air sampling filters) sometimes these mineralogical distinctions are not clear. Unfortunately the data in the record is insufficient at this time to precisely determine how often these situations occur.

The record also describes the presence of various kinds of "intermediate" fibers, which "defy mineralogic classification". Various participants have requested OSHA to base its regulatory decisions on precise mineralogic definitions. Clearly, any significant presence of mineral types which "defy classification", would defeat such an approach. Although these transitional fibers exist OSHA does not believe that independent evidence of their health effects exists which would support regulation. Dr. Langer testified that there are some fibers which "defy mineralogical identification" but they are a "small percentage" (Tr. 5/11, p. 230). Thus, although their presence lends credence to the explanation that asbestos minerals and nonasbestiform varieties developed on a continuum it does not change the fact that for most mineral deposits, asbestos and nonasbestiform habits are distinguishable.

OSHA finds, based on this record that while these intermediate fibers do exist, the record indicates that they are minor constituents of most mineral deposits. In general, when observed in their natural habit of growth, the two habits of asbestiform and nonasbestiform minerals are distinctly different. The record also indicates that populations of particles derived from mining, crushing or processing these minerals, are also distinctly different (e.g. in the distribution of widths and aspect ratios). However on an individual particle basis, which is often the case for particles from air monitoring samples, these distinctions may become less clear. The record indicates that there are situations where individual particles of

asbestiform and nonasbestiform minerals may be indistinguishable. These situations are likely to be rare in occupational contexts but OSHA has little information upon which to make such a determination.

The regulatory implication of these findings are as follows: Several participants suggested that all forms of asbestos and their nonasbestiform analogues should be treated as a single mineral entity for purposes of regulation because the forms of ATA cannot be distinguished, and there is no clear mineralogic dividing line between various varieties of ATA. Dr. Charles Spooner, a witness for OSHA, a geochemist, a mineralogist and an industrial hygienist, in response to a question concerning how his laboratory distinguishes asbestos from fibers that are not asbestos, stated that "at this point if we identify the mineral tremolite, we make no distinction on the basis of fiber." (Tr. 5/8, p. 119). Dr. Spooner's post-hearing submission again noted that distinguishing asbestiform and non-asbestiform cannot be made reliably either on the basis of a hand sample or microscopic examination: Hand-specimen characterization of mineral habit does not necessarily carry over to mineral habit on the micro scale; and, on the micro scale, high-aspect ratio cleavage fragments and asbestiform fragments can co-exist. Dr. Spooner recommended that "the issue must be resolved on the basis of biological activity and aspect ratio of the respirable fibrous bodies." (Ex. 512).

Dr. Bruce Case, in a letter to the British Journal of Industrial Medicine, November, 1990, provides a clear summary of the mineralogic argument for considering asbestiform ATA and non-equant nonasbestiform ATA to be a single substance for purposes of regulation:

> The major flaw in the substitution of mineralogical definitions for microscopical characteristics is a reliance of the former on gross morphology. For regulatory and health assessment purposes, it is microscopical morphology that counts: there is no evidence that potential-affected cells can distinguish between "asbestiform" and "non-asbestiform" fibers having equivalent dimensions. The lack of agreement as to what is and what is not "asbestiform" tremolite would be less critical if those who advocate such a definition could show that there is a clear line between the two forms when they present 'fibrous' morphology. Unfortunately, this is not the case. Pooley has noted that the differences in structure between massive, acicular and fibrous morphology are not "sharply defined", but rather represent points on a continuum. So-called cleavage fragments may, in a strict morphological sense, be fibrous in their appearance in microscopic fields, and there is no convincing evidence that these 'fibers' are of no public health concern. (Ex. 529.4)

The ATS's report also concluded that mineralogic distinctions between different forms of anthophyllite, actinolite and tremolite were not clear: "It became apparent both from our review of the literature and from submissions made to this committee by experienced mineralogists, that the distinction between cleavage fragment and asbestiform fibers, although theoretically clear, is in practice extremely murky." (Ex. 525 at 3)

As noted above, other participants took issue with these statements. In particular, in a post-hearing submission, the R.T. Vanderbilt Company directly took issue with the ATS statement quoted above as follows: "(a)t the OSHA hearing, Dr. Wylie, Dr. Langer and Mr. Addison explained that the distinctions at issue were in no way 'murky' (theoretically, practically, or otherwise). While we do not disagree that some gray areas exist (i.e., at the single crystal level), the important day-to-day distinctions at issue in this rulemaking simply do not fit this 'murky' characterization". (Ex. 529–6 at 3). Other presenters made similar statements. (See e.g., testimony of Dr. Wylie at Tr. 5/9, at 103 and Dr. Lee at Tr. 5/9, at 1).

OSHA has determined that nonasbestiform ATA and asbestos anthophyllite, actinolite, and tremolite should be defined separately for regulatory purposes to conform to common mineralogic usage. As discussed above, the testimony of Dr. Wylie, Dr. Langer, Dr. Nolan, Dr. Campbell, the Bureau of Mines and others agreed that populations of asbestos and nonasbestiform ATA are separate mineral entities, which for the most part have widely diverging population characteristics which are the result of its habit of crystallization in nature. In addition, these characteristics, such as high fibrosity, fiber shape and size, and easy separability appear to be biologically relevant in producing disease. The agency notes that the position it adopted in the 1986 standards, where it stated: "(t)he Agency recognizes that the minerals tremolite, actinolite and anthophyllite exist in different forms", and therefore required that warning signs and labels for ATA need not include the term "asbestos" (See 51 FR at 22679, 29 CFR 1910.1001 (j)(2)(iii), 1926.58(k)(1)(iii), recognized the mineralogic distinctions, but did not distinguish the minerals based on biologic effects. Thus, the difference between the Agency's 1986 and its current positions is not mineralogical and as explained above, is related to its view of the health effects evidence. Thus although the Agency now reaches a different conclusion than it did in 1986 concerning the evidence of health risks of nonasbestiform ATA, it continues to believe that the mineralogic forms are sufficiently distinctive to be treated differently for regulatory purposes. Also, unlike its determination in 1986, which was based on a far less extensive review of health effects evidence, the Agency now finds that differences in biologic effect between asbestos and its nonasbestiform analogues are likely related to the distinctions which define the two groups as separate mineral entities.

V. Health Effects

In its proposal OSHA reviewed the available health effects evidence and preliminarily concluded that "there are a number of studies which raise serious questions about the potential health hazard from occupational exposures to non-asbestiform tremolite, anthophyllite and actionolite. However, the currently available evidence is not sufficiently adequate for OSHA to conclude that these mineral types pose a health risk similar in magnitude or type to asbestos. The Agency believes, however, that the evidence suggests the existence of a possible carcinogenic hazard and other impairing non-carcinogenic adverse health effects." (55 FR 4943).

After reviewing the rulemaking record compiled subsequent to the publication of the proposal, OSHA reaffirms its view of the health effects evidence. The few new studies that have come to light in this rulemaking are still inconclusive. It should be noted that OSHA believes the health effects evidence falls short regardless of whether this proceeding is viewed as deregulatory or as a regulatory initiative.

More specifically, OSHA believes that the evidence viewed as a whole does not rule out a possible carcinogenic effect of certain subpopulations of nonasbestiform ATA at an unspecified exposure level. However, as discussed below, various uncertainties in the data and a body of data showing no carcinogenic effect, do not allow the Agency to perform qualitative or quantitative risk assessments concerning occupational exposures. Further, the subpopulations of nonasbestiform ATA which, based on mechanistic and toxicological data, may be associated with a carcinogenic effect, do not appear to present an occupational risk. Their presence in the workplace is not apparent from the record evidence.

1. Human Studies

Summary

The epidemiologic studies submitted to this record consisted of no studies which were not available to OSHA at the time of the proposal. The interpretations submitted in comment and testimony also reiterated positions taken prior to the proposal, although participants expanded on them. Additional analyses concerning reported cases of cancer in the NIOSH study cohort were submitted, both in support of the position that the talc exposure was correlated to cancer, and in support of the opposing view that smoking was a likely cause of any elevated SMR.

A review of the human studies in the record follows: Where no new interpretative comment was offered, only a summary describes it. Where new comment or updated data was submitted, a discussion is presented. The discussion is organized around the categorization of the minerals to which the cohorts were exposed. As discussed at length in the proposal, uncertainty about the content of the mineral exposure at times made definitive interpretation difficult. However, because the substances to which workers are exposed are mixed, OSHA believes that mixtures can be evaluated in their own right. If disease cannot be correlated to exposure to a specific mineral in a mixed mineral product, then prudent health policy allows OSHA to ascribe causation to the mineral mixture, rather than to any component.

a. *Studies of exposures to ATA and asbestos contaminated ores.* As OSHA noted in its proposal, McDonald et al. (Ex. 410–6) reported an excess of respiratory cancer including mesotheliomas, among vermiculite miners in Libby, Montana. Vermiculite, a mica-like mineral ore, was contaminated with four to six percent tremolite-actinolite fibers. Mineralogic analysis of the Libby mine's ore showed the fibers to be mostly an asbestiform type of fiber. However there were also "massive amphibole crystals, which when pulverized produced cleavage fragments resembling fibers" (p. 439). OSHA noted, "[a]lthough the fiber analyses indicate that some of the particles were non-asbestiform in origin, the predominant fiber exposure appears to be from asbestiform tremolite. * * * Standardized Mortality Ratios (SMRs) were computed for the cohort of 406 Men. When compared to death rates of men in the U.S., there was a substantial excess number of deaths from respiratory cancer (SMR=245). Four of the 43 deaths were from mesothelioma. There was also a substantial excess number of deaths from non-malignant respiratory disease (SMR=255). There was no excess number of deaths from cancers of non-respiratory sites. When compared to the death rates of Montana men, the cohort's excess mortality was even greater; for example the SMR for respiratory cancer rose from 245 to 303." OSHA stated in the proposal that the result of the Libby, Montana study and other studies of workers exposed to tremolite asbestos contaminated ores "provide additional evidence on the high potency of asbestiform tremolite. Although non-asbestiform tremolite was present it is not possible, from the data presented, to discern what contributing effect the non-asbestiform minerals may have had." (55 FR 4944).

Most comment and testimony during the rulemaking concerning the Libby Montana study reiterated OSHA's earlier analysis. The American Thoracic Society pointed out that the mineralogic characterization of the Libby deposit as containing tremolite asbestos has been challenged, and for that reason and because this is a "non-replicated" study, warned against relying on it. (Ex. 525, p. 5) Dr. Nicholson, in his testimony, pointed out that the presence of nonasbestiform minerals in the deposit, made the study compatible with the risk expected on the basis of measured fiber concentrations (Tr. 5/8, p. 55). NSA noted that "the Libby vermiculite workers were exposed to asbestiform tremolite and asbestiform actinolite and thus this study is not useful in the examination of the nonasbestiform ATA question." (Ex. 524, p. 26.) As stated in the preamble to the proposal, OSHA believes that the results of the Libby, Montana study, and other studies where miners were exposed to both asbestos tremolite and nonasbestiform tremolite (see e.g. Kleinfeld et al., Ex. 84–402 and Brown et al. (Ex. 84–25) provide additional evidence on the high potency of asbestiform tremolite. Although nonasbestiform tremolite was present it is not possible from the data presented, to discern what contributing effect the nonasbestiform minerals may have had to the excess cancer observed in this study.

b. *Studies of exposures to mixtures of other nonasbestiform analogues with nonasbestos minerals.* The Homestake gold mine study (Ex. 84–45, Docket H–033c) was a retrospective cohort mortality study of 3328 gold miners who worked in full-time underground jobs for at least one year between 1940 and 1965. There were 861 observed versus 765 expected deaths overall. The primary exposures were to amphibole minerals in the cummingtonite-grunerite series (the nonasbestiform analogue of amosite) and silica. According to the study's investigators "no association, as measured by length of employment underground, dose (total dust × time), or latency was apparent with lung cancer mortality (43 observed vs. 43 expected). However Dr. Nicholson noted that the conclusion of no excess lung cancer risks associated with exposures at the mine was based on calculations using U.S. mortality rates, rather than South Dakota mortality rates. Had South Dakota mortality rates been used, SMRs would have been raised to 160, rather than the 100 reported by the investigators. (Tr. 5/8, p. 81–2). Dr. Bob Reger who testified for the American Mining Congress (AMC) suggested that such an adjustment is improperly made without adjusting for age (See Tr. 5/8, p. 82). Although OSHA believes that uncertainty in interpretation is introduced by the study's use of U.S. mortality rates, reconstruction of the SMRs applying the South Dakota mortality rate is hindered by the lack of data which would allow an age specific reconstruction. Dr. Nicholson also noted that the Homestake results were not incompatible with an asbestos effect, because in the longer duration category there is a total of only three deaths, an additional uncertainty, and there is a possibility that one has individuals that are survivors and "* * * demonstrate a lower risk by virtue of the fact that they could have had lesser exposure jobs, and, thus, be at lesser risk * * *" (Tr. 5/9, p. 83). OSHA believes Dr. Nicholson's comments correctly state some uncertainties of the study, i.e., small number of deaths, and the possibility that retirees can be a survivor population. These uncertainties do not, by themselves, provide a basis for interpreting the Homestake studies as confirming evidence for the carcinogenic effect of nonasbestiform minerals. The study is not inconsistent with a positive association and does not prove that there is no association. However, it can also not be interpreted as clear evidence of association.

Other studies concerned two groups of iron ore miners and processors, who were exposed to taconite dust which may have contained cleavage fibers of the cummingtonite-grunerite series (Higgins et al., 1983 (Ex. 410–18): Cooper et al., 1988 (Ex. 427)). OSHA agrees with the analysis of all participants who commented on these studies, to the effect that they do not inform as to the carcinogenicity of nonasbestiform ATA, perhaps because of the low exposures in one mine and the lack of latency to observe lung cancer in the other (See

e.g., NSA's post-hearing brief (Ex. 524, p. 27), Dr. Nicholson's testimony (Tr. 5/8, pp. 55–56)).

In its proposal OSHA described at considerable length the studies of the New York State tremolitic talc miners and millers, which had been undertaken by NIOSH. The entire preamble discussion is incorporated here (see 55 FR 4946). One significant interpretive issue concerns the mineral content of the deposit and thus the employees exposures. Vanderbilt testified that "the ore composition is fairly consistent * * * the content of the talc being between 20 to 40 percent, serpentine, 20 to 30 percent; the tremolite 40 to 60 percent, the anthophyllite between zero and five (percent), and * * * quartz * * * in very trace amounts." (Tr. 5/11, p. 103). Testimony in the record supports Vanderbilt's claim that any of the asbestos minerals that falls into the scope of this standard is not a component of the ore. (See Langer et al., and Dunn GeoScience in the prehearing submission of the American Mining Congress and the NSA, Ex. 479–6, 479–23; R.J. Lee in the Vanderbilt Dust Project, Ex. 433). While the reports of these analysts find no evidence of the six asbestos types in the Vanderbilt talc mines, all three noted the presence of asbestiform talc fibers and "transitional particles". These are the same "transitional particles", described earlier in the section on Mineralogic Considerations, which resemble asbestos and talc but are not technically asbestos. NIOSH reiterated its original evaluation that the Vanderbilt deposits contained asbestiform as well as nonasbestiform tremolite and anthophyllite. (See Tr. 5/9, p. 11.) OSHA notes that the debate over the mineralogic content of the Vanderbilt mines remains unresolved. OSHA believes however that the presence of asbestiform talc and the so called "transitional particles" together with the undisputed presence of nonasbestiform tremolite and anthophyllite may have led to the identification of various particles as asbestiform tremolite and/or anthophyllite.

Various industry and government sponsored reviews and updates of NIOSH's study have been conducted. In the NPRM, OSHA concluded that "the NIOSH studies provide evidence to support the possibility that exposure to minerals at the mine is correlated to the excess mortality from lung cancer and nonmalignant respiratory disease and an excess of pleural thickening and lung decrements. However due to uncertainties in the mineral content and mixed mineral contents, the study does not show that it is more likely than not that non-asbestiform fibers are the cause of the disease." (55 FR 4947).

A former NIOSH researcher, Dr. John Gamble, who has criticized basing the regulation of ATA as asbestos on the NIOSH study, submitted additional material to substantiate his contention that attributing excess cancer to nonasbestiform ATA was speculative (Ex. 478–8). Gamble performed an update and re-evaluation of the 1980 NIOSH study in which he added eight more years of follow-up, an exposure latency analysis, and a nested case-control study to control for smoking and other occupational exposures. In his analysis Gamble found a significant increase in mortality for all cause (SMR=128), all respiratory diseases (SMR=251), all malignant neoplasms (SMR=145), and lung cancer (SMR=207). The lung cancer SMRs were elevated in the 20–36 year latency group (SMR=258) and for workers with less than one year tenure at the mine (SMR=357). In the nested case-control study Gamble found no apparent increased risk associated with non-Vanderbilt jobs. However he did find that the odds ratio for cases who smoked was six times that of combined ex-smokers and nonsmokers. Gamble stated in his conclusions that "Although lung cancer SMRs are elevated, we could not find an exposure-response relationship. The lack of an increased risk of lung cancer is consistent with other mining populations exposed to nonasbestiform minerals. The time occurrence of lung cancer is consistent with a smoking etiology." (Ex. 478–8, p. 2)

NIOSH has stated that Dr. Gamble's opinions "are his alone; arise from activities he performed which, in part, created the appearance of a conflict of interest; and represent conclusions, as judged by independent reviewers, which are not supported by data." (Ex. 520, p. 3). NIOSH continues to support the findings of its earlier studies in the New York talc mines, which, they concluded, provide clear evidence of an increase in lung cancer and other asbestos related disease in talc workers. (Ex. 478–15, Tr. May 8, p. 24)

In its post hearing comments NIOSH submitted an update of the Gouverneur Talc study which added eight new lung cancers to the ten identified in the earlier report (Ex. 532). According to NIOSH the SMR for lung cancer was uniform across tenure strata and increased with increasing latency. There was a statistically significant excess in lung cancer in those with 20 years of more latency and with less than one year employment. Those in this latency group with greater than one year duration also exhibited an increased risk but it was not statistically significant. The increased risk of lung cancer among those with short duration also was observed in the 1989 analysis. (Ex. 532 at p .5). NIOSH offered three explanations: cohort members may have been employed in other New York State talc mines and mills where there may have been additional exposures to the same or to similar types of mineral dust and noted that it is known that half of the lung cancer cases worked on other talc mining operations; some of the short duration group may have had very high exposures; and smoking habits among the employees may have been different from the reference population. However, NIOSH performed an exercise to show that differences in smoking could not account for the observed increase in lung cancer. NIOSH calculated SMRs assuming that 100% of the cohort were smokers. NIOSH noted that the SMR for lung cancer would have been only 160, instead of 207. In addition, the updated results show the SMR for non-malignant respiratory disease was significantly elevated among those with more than one year of tenure (SMR=290, CI 144, 518). The types of nonmalignant disease observed in this study is not known to be smoking related.

OSHA notes, however, that virtually no other participant endorses the NIOSH study as a basis for regulation. For example, the ATS report noted that the results of the case-control study and the lack of any dose-response relationship for lung cancer risk in the cohort study do not support a conclusion that the elevated risk in this population was attributable to mine exposures. (Ex. 525, p. 6) Dr. Richard Morgan, testifying for the NSA, stated that "Even if subsequent studies of the Vanderbilt mine permit a conclusion that an occupational exposure at the mine contribute to the risk, there will remain the problem of deciding which exposures (among many) are likely responsible. At this time, however, there is no evidence from these studies that will permit any conclusion concerning nonasbestiform ATA." (Ex. 490C, p. 180).

In summary, OSHA believes that the epidemiological studies, as a whole, provide insufficient evidence to inform as to the carcinogenicity of nonasbestiform ATA. For example, epidemiological studies involving exposures to nonasbestiform amphiboles other than nonasbestiform ATA are hindered by low "fiber" counts and short latency periods. It is likely that even if exposures had been to

"true" asbestos, a positive response would not have been observed under similar low dose, low latency conditions. Epidemiological studies of upstate New York talc miners are hindered by the fact that workers were exposed to a mixture of minerals (the identification of which is still somewhat at debate). Although plausible arguments have been presented that suggest that the increase in lung cancer is consistent with a smoking etiology, OSHA believes that it is also likely that exposures at the mine are responsible for the observed disease, especially in the case of nonmalignant respiratory disease. Nevertheless, due to the mixed mineral exposures OSHA concludes that it is not possible from the present data, to determine what role the nonasbestiform ATA may have played in the induction of that disease.

2. Lung Burden Studies

In the proposal OSHA discussed the findings of several lung burden studies. One study discussed the case study of a mesothelioma death in which an analysis of the autopsied lungs showed elevated levels of tremolite (Ex. 410–10). The fibers of tremolite were of low aspect ratio (i.e. 7:1) and OSHA concluded that low aspect ratio tremolite appeared to have contributed to the induction of mesothelioma (55 FR 4944). However, Mr. Kelly Bailey, testifying for the NSA, took issue with OSHA's conclusion noting that this study involved only a single case study of an individual who was also exposed to chrysotile and the authors of the report stated that the possible effects of tremolite are uncertain. Mr. Bailey also noted that the tremolite "present in the lungs of this case had a *mean* aspect ratio of 7:1" and " * * * it is obvious that a *distribution* of asbestos fibers were found, many with aspect ratios greater than 20:1" (Bailey testimony, Ex. 479–23).

In the proposal OSHA also discussed lung burden studies among miners exposed to both chrysotile and tremolite (Rowlands et al., Ex. 84–178; McDonald et al., Ex. 84–175; Glyseth Ex. 312). These studies indicated that despite high exposure levels of chrysotile, analyses of autopsied lungs showed higher lung burdens of tremolite. OSHA concluded however that the fact that there was a mixture of mineral fiber types precluded one from ascribing causation to one particular mineral type.

The American Thoracic Society (ATS) reviewing the same studies concluded that "although the role of chrysotile versus tremolite in producing disease in these patients could not be clearly sorted out, the * * * data appear to indicate that fairly low aspect ratio fibers of tremolite are capable of causing disease, probably in fairly low concentrations in the case of pleural plaques, but certainly only in very high concentrations in regard to mesothelioma and asbestosis" (Ex. 525, p. 10).

In response to the ATS report, Dr. Arthur Langer, a mineralogist, noted that the "fairly low aspect ratio fibers of tremolite" referred to in the ATS report involve fibers measurements made counting all fibers (i.e. not only those greater than 5 micrometers) and using geometric means. Langer states that "geometric means can be very misleading and the raw data are needed. If one only counts the fibers *longer* than the *5um* geometric mean, the aspect ratio of the tremolite fibers is greater than 20:1." Dr. Langer adds that "the data from Canada are problematic in that there is a mixed population of tremolite (when present) which skews size distribution in lung burden studies towards short wide 'fibers'. The disease (plaques) may have been caused by thin fibers (asbestos) at the pleura. The thick cleavage fragments in the lung parenchyma may have little to do with the disease process at the pleura" (Ex. 529–7, pp. 15–17).

Lung burden analyses were also performed by Dr. Jerrold Abraham, a physician and pathologist at the State University of New York. In his testimony and written comments to the proposal, Dr. Abraham presented his analyses of the lung tissues of deceased talc miners from upstate New York. Dr. Abraham testified that these analyses showed that the lungs of these talc miners included both asbestos and nonasbestiform minerals, despite the fact that the talc miners are claimed by some parties to be exposed to only nonasbestiform tremolite. (Tr. May 10, p. 119).

However several hearing participants objected to Dr. Abraham's analyses (See Morgan and Reger for the American Mining Congress, Ex. 508; Langer et al., Ex. 511; and the R.T. Vanderbilt Co., Ex. 513). In summary, these commentors stated that the review and analyses of the talc miner cases lacked documentation and included neither smoking histories nor prior occupational exposures. They suggested that these cases may have had heavy smoking histories or prior exposure to asbestos which could have induced the observed disease. In particular Dr. Langer, a mineralogist, stated that the "limitations of the report are so great that the data are reduced to anecdotal observations" (Ex. 511).

OSHA acknowledges the limitation of these analyses. However, the finding of a rare disease such as mesothelioma, among a group of miners exposed to mixed mineral environments, raises concern over these type of exposures. Furthermore smoking is not known to induce mesothelioma. However, as was stated in the case of the Canadian chrysotile miners, the mixture of mineral types precludes one from ascribing causation to nonasbestiform minerals. This problem, in addition to the uncertainties involved in Dr. Abraham's analyses, do not provide sufficient information to conclude that nonasbestiform ATA present a risk similar in magnitude or type to asbestos.

In summary, lung burden analyses indicate that nonasbestiform minerals are present in the lungs of cases diagnosed with lung cancer and mesothelioma. Several arguments have been put forth by hearing participants both for and against the implication that nonasbestiform contributed to the observed disease. OSHA believes that it is difficult to discern what contributing effect the nonasbestiform minerals may have had because other asbestiform minerals are also present.

3. Animal Studies

a. *Mechanistic studies.* OSHA noted in the proposal that several studies in the record suggested that fiber dimension is an important factor in asbestos-related disease development. (55 FR at 4944). Dr. Merle Stanton's landmark study (Stanton et al. (Ex 84–195, Docket H–033c)) is generally accepted as showing that fiber dimension is an important determinant in mesothelioma production. Dr. William Nicholson, testifying for OSHA described Stanton's study in his testimony. "Seventy-two separate experiments were conducted with different mineral materials, including the commercial asbestos varieties, man-made mineral fibers and minerals containing varying other percentages of fibers. The results of those studies indicated, and his major conclusion was, that the length and diameter of the fibers were the most important factors determining carcinogenicity. Longer fibers were more carcinogenic than shorter ones, and thinner ones more so than thicker ones * * *." (Tr. 5/8, p. 40).

Most comment and testimony acknowledged that Stanton's work demonstrated that fiber dimension is generally related to tumor production. (See e.g. NSA's post-hearing brief at 19, Ex. 524; Dr. Oehlert's testimony Tr. 5/9, p. 88) For example, Dr. Oehlert, a statistician testifying for NSA stated "In

agreement with Stanton, I find that the log number of index particles per microgram in a sample is the best single predictor of tumor probability for that sample. The index particles—I believe the term was coined by Stanton—are those particles longer than 8 micrometers and narrower than .25 micrometers." (Tr. 5/9, p. 88).

However, participants disagreed over more specific interpretations of Stanton's study. For example Dr. Nicholson (Ex. 484, Tr. 5/8), NIOSH (Ex. 478–15, Tr. 5/9), and Dr. Groth (Tr. 5/10) asserted that Stanton's work showed that all fibers with certain dimensions had tumorigenic potential; that the greatest correlation existed between fibers of a diameter less than .25 micrometers and greater than 8 micrometers (the "index particles"), but that even a size dimension of 4 to 8 micrometers in length, with a diameter of .25 to 1.5 micrometers had a correlation coefficient of .45. (See e.g. testimony of Dr. Nicholson, 5/8 at 41).

The NSA, in its cross-examination and post-hearing submissions, challenged the interpretation that Stanton's studies show that fibers with aspect ratios as low as 3:1 or 5:1 increase tumor response stating:

> During the hearing testimony, the fact that all of the studies involved exposures to a population of fibers or particulates was consistently agreed upon. This fact does not allow one to attribute a specific aspect ratio or dimension as the cause of a response in these animal studies * * *. It is important to recognize that the entire particle size profile of the exposure (width, length, and aspect ratio distribution) contributes to the results of any study. When one looks at the particle width, length, and aspect ratio distributions of cleavage fragments and compares these same distributions to those for asbestos, the population characteristics are easily seen to be quite different * * * (NSA, post-hearing brief, Ex. 524 at 16).

Various statistical analyses of Stanton's studies were submitted. The study cited as supporting low aspect ratio toxicity, is Bertrand and Pezerat (Ex. 84–114, Docket H–033c). OSHA described this study in its proposal as finding "a high correlation between aspect ratio and tumor probability for durable minerals. In their analysis tumor probability began to rise at aspect ratios of about 3 to 5". (55 FR at 4944). However, the Bureau of Mines stated in their comments that OSHA did not fully describe Bertrand and Pezerat's findings. They pointed out that "the slope of the curve was extremely small at 3:1 to 5:1 aspect ratios and aspect ratios of 3:1 to 5:1 represent about 5 percent probability (base level in the study)" and "No indication was given as to whether 5 percent is statistically significant to control populations." (Ex. 478–6) Similarly the NSA stated that since Bertrand and Pezerat's "analyses deal with distributions of aspect ratios, it is inappropriate to suggest that an aspect ratio of three or five or any specific value is the reason for the carcinogenic response". (Ex. 524, p. 22).

NSA's witness, Dr. Gary Oehlert presented a statistical reanalysis of Stanton's data. Dr. Oehlert stated that his analysis showed that the log number of index particles was the most significant predictor of tumor probability and once index particles have been accounted for, aspect ratio has no further predictive information to provide. (Tr. 5/9, p. 90). However, it should also be noted that although Dr. Oehlert concluded that the number of index particles is the "best" predictor of tumor probability, his analyses also show that aspect ratio is statistically significantly correlated to tumor probability. Dr. Oehlert suggested that this correlation is likely due to the fact that aspect ratio is related to the number of index particles. Nevertheless he states that nonindex particles may contribute to carcinogenicity, but that the Stanton data are not precise enough to determine their influence. In addition, Dr. Oehlert noted that the mineral type is a significant predictor of tumor probability * * * and should be included when estimating tumor risk. (Tr. 5/9 at 2–87).

Dr. David Groth, a pathologist, testifying on his own, concluded from review of Stanton's work that "the results of these studies (i.e. Stanton's) clearly document the importance of fiber size and the induction of cancer by fibers. They also indicate that the chemistry and crystalline structure of the fibers play either no role or a secondary role in the induction of cancer by fibers." Dr. Groth stated that "the results of these experiments have not been seriously challenged by data derived from other animal experiments, and remain as valid today as they were in 1981" (Tr. 5/10, pp. 30–31).

Other dimensional hypotheses were also submitted to the record. Dr. Morton Lippman's 1988 paper which, after reviewing various human and animal studies, identified dimensional ranges for different health effects, was submitted by NIOSH (Ex. 478–15) and others (NSA, Ex. 479–23; AMC, Ex. 479–6). Based on his review of animal injection studies and human lung analyses, Dr. Lippman concluded that the various hazards associated with asbestos (i.e. asbestosis, mesothelioma and lung cancer), are associated with critical fiber dimensions and these dimensions are different for each disease. For example, Dr. Lippman concluded that asbestosis is most closely associated with the surface area of fibers with lengths greater than 2 micrometers (um) and widths greater than 0.15 um; mesothelioma is most closely associated with the number of fibers with lengths greater than 5 um and widths less than 0.1 um; and lung cancer is most closely associated with the number of fibers with lengths greater than 10 um and widths greater than 0.15 um.

The data in the record support and OSHA concludes that fiber dimension is certainly a significant determinant of biological function. OSHA also concludes that despite the various reanalyses of the Stanton study, the basic premise of this study still holds true, that is, that tumor probability increases with the number of long and thin durable particles. However the data available are not precise enough to determine at what point there is no significant carcinogenic potential.

OSHA further concludes that longer, thinner fibers are likely to be more pathogenic. The evidence shows that dusts containing cleavage fragments, rather than asbestiform material, contain substantially fewer longer thinner particles. Thus, a dimensional theory of pathogenicity does not by itself demonstrate that nonasbestiform ATA has similar health effects to asbestos. Even if dimension were the principal determinant of biologic potential for mineral dusts, the evidence in this record is not sufficient to allow OSHA to draw the line for regulation for nonasbestiform ATA at specific dimensions.

b. *Empirical studies.* OSHA stated in the proposal that the empirical studies in animals are not sufficiently supportive of the mechanistic information to conclude that the risks are similar in magnitude and type for both asbestiform and nonasbestiform minerals. (55 FR at 4946). Although OSHA discussed a preliminary report of early results in its proposal, the one totally new study submitted to the record concerned intraperitoneal injection studies in rats of six samples of tremolite of different morphological types conducted by a Scottish team consisting of John Davis, John Addison and others. Dr. Addison testified at the hearing and submitted both draft and final papers describing the experiment (Ex. 479–22; Tr. 5/11). In this study six different samples of tremolite of different morphological types were prepared as dusts of respirable size and used in intraperitoneal injection studies in rats. Three samples were identified as

being tremolite asbestos (California, Korean and Swansea samples). A fourth sample, called Italian tremolite, was initially identified to be nonasbestiform but was later identified, after the tumors were observed, as a "brittle type of fibrous tremolite". The two remaining samples were identified as nonasbestiform tremolite (Dornie and Shinness samples). The three asbestiform tremolite samples produced mesotheliomas in almost all animals tested (California, 100%; Swansea, 97%; and Korean, 97%). The Italian sample which had "relatively few asbestos fibers" produced mesotheliomas in 67% of the animals tested although at significantly longer induction periods. The two remaining samples produced "relatively few tumors" (Dornie, 12% and Shinness 5%) and were considered, by Dr. Addison to be within the range of background incidence of mesotheliomas observed in historical controls in his lab.

TABLE 1.—SUMMARY OF SURVIVAL DATA AND FIBER NUMBER FOR 10MG DOSE

Sample	#animals	#mesothelliomas (%)	Median survival time (days)	#fibers (10^5)/mg	#fibers (10^5)/mg len. > 8um dia. < .25
Calif.	36	36 (100)	301	13430	121
Swansea	36	35 (97)	365	2104	8
Korea	33	32 (97)	428	7791	48
Italian	36	24 (67)	755	1293	1
Dornie	33	4 (12)	*	899	0
Shinness	36	2 (5)	*	383	0

*Not calculated; table extracted from Davis et al. (Ex. 479–22).

From these results Dr. Addison concluded that all the samples possessed some potential to produce mesotheliomas. However, he pointed out two apparent anomalies. One, the Swansea sample had fewer fibers than the Korean sample, but both produced a maximum response. Dr. Addison explained that one possible explanation may be that the relationship between fiber number and mesothelioma production is blurred by the overdose situation (i.e. a saturation effect). The second anomaly noted by Addison was the difference in fiber number and mesothelioma production between the Italian and Dornie samples. From Table 1 above, as presented in the Addison study, the Italian sample had 1293×10^5 fibers/mg and the Dornie had 899×10^5 fibers/mg. Dr. Addison notes however that when only those fibers from this group (i.e. fibers with aspect ratios >3:1) which have lengths greater than 8 um are counted, the Italian sample had ⅓ fewer fibers, but produced a higher percentage of tumors (See for example Tables 2(d) and 2(e), Ex. 470–22). Addison also states that while "it is true that many of the long fibers in the Dornie specimen were greater than 1 μm in diameter * * * if only fibers greater than 8 μm in length and less than 0.5 μm in diameter were considered, the two specimens have approximately equal numbers which still does not conform to their very different carcinogenic potential." (Ex. 479–22, p. 13).

This study was interpreted differently by various participants. The NSA and National Aggregates Association's joint submission found the results of the Davis et al study consistent with its position that "the higher the proportion of tremolite federal fibers (i.e. particles with aspect ratios > 3:1) with widths less than 0.5 μm, the greater the incidence of tumors. Conversely, the higher the proportion of tremolite federal fibers with widths greater than 1 μm, the lower the incidence of tumors." (Ex. 529–8, p. 3). The NSA in its post hearing comments further stated that the Davis et al. data "showed an absence of excess tumors from nonasbestiform ATA, and that the best parameter to explain the formation of tumors was the number of >32:1 aspect ratio Stanton particles, not 3:1 cleavage fragments." (Ex. 524, p. 2)

NIOSH found that the Davis et al. study showed that all forms of tremolite asbestos should be considered carcinogenic, and that it presents no clear evidence indicating that non-asbestiform tremolite is not carcinogenic. However, NIOSH expressed serious concerns about the protocol and presentation of the study as follows: lack of controls or historic incidence data for the strain of rat used; unclear mineralogic classification of various samples, particularly numbers 4, 5 and 6; the small number of fiber and particle counts obtained for each sample may limit the accuracy of the size distributions reported; lack of knowledge concerning the representativeness of the non-asbestiform varieties used, and because of saturation doses causing maximal responses for three samples, dose-response relationships cannot be developed for these samples. NIOSH cautioned that because the study has been neither peer reviewed nor published, lacks controls, and has other defects, it should not be relied upon by OSHA for any significant regulatory decision. (Ex. 532)

Langer et al. took issue with most of the NIOSH criticisms in their post hearing comments (Ex. 550). In particular they state that NIOSH is incorrect in its statement that the mineralogic classification of samples 4, 5 and 6 is unclear. Langer et al. point out that the minerals were characterized by "continuous scanning X-ray diffraction, polarized light microscopy as well as scanning and transmission electron microscopy equipped with an energy dispersive X-ray spectrometer." They also disagree with NIOSH statements that "the small number of fiber and particle counts obtained for each sample may limit the accuracy of the size distribution reported." Langer et al. note that "in each operation 300 fibers of all sizes were counted and measured * * *", and "to improve the statistical quality for long fibers the count was continued only for fibers >5 μm * * * until 100 fibers >5 μm had been counted * * * this was done twice for most of the samples and three for the Ala di Stura (i.e. Italian) and Dornie samples (Ex. 550, p. 7).

Dr. David Groth, a former NIOSH scientist, testifying on his own behalf, disagreed with statements made by Addison that the tumor incidence observed for the Dornie sample (12%) and the Shinness sample (5%) was within the background incidence for historical controls. Dr. Groth contends that this observation is not supported by the data published from Addison's lab. Dr. Groth states that "In two separate publications in 1986 * * * using the same strain of rats (AF/HAN) in full life-span experiments *no* mesotheliomas were observed in 61 control rats in one experiment and 64 control rats in

another experiment." (Ex. 529-1, p. 2) In addition, Dr. Groth cites several other results from Addison's lab which show no background incidence of mesothelioma for this strain of rat. Dr. Groth concludes that "the finding of peritoneal mesotheliomas in 6% of rats injected with the Shinness tremolite sample, is a significant finding and provides further support for Stanton's theory regarding the carcinogenic potential of all fibers, including nonasbestiform fibers." (Ex. 529–2, p. 3).

According to Dr. Addison, a co-author of the study, "the results of the * * * study suggest that a wide ranging group of tremolite samples all possessed some potential to produce mesotheliomas following injection into the rat peritoneal cavity" and "In general carcinogenicity relates to the number of long thin fibers than to any of the other dimensional characteristics of the dusts that were considered but the relationship was by no means exact." (Ex. 479–22, p. 13). Dr. Addison added, however, that "the intraperitoneal injection test is, however, extremely sensitive and it is usually considered that, with a 10 mg dose, any dust which produces tumors in less than 10% of the experimental group is unlikely to show evidence of carcinogenicity following dust administration by the more natural route of inhalation". (Ex. 479–22, p. 14–15). He thus concluded that human exposure to such a material "will certainly produce no hazard."

Based on the record evidence, OSHA believes that the Davis et al study confirms the view that various forms of tremolite have different pathogenic potential. For five of the six samples, constant relationships prevailed between asbestiform fibers and high potency and between nonasbestiform dusts and low potency. Interpreting the Italian sample is more problematic, and only speculative explanations exist for why it is more potent than would have been predicted based on its relatively small number of high aspect ratio fibers.

Other animal studies were the subject of testimony and comment, but the analyses essentially reiterated positions taken by the parties in communications to the Agency prior to the proposal. OSHA described the Smith study in its proposal as follows: "Smith et al injected four different talc samples intrapleurally into hamsters. The samples included fibrous tremolitic talc from New York State, tremolitic talc from the facility studied by NIOSH, tremolitic talc from the Western U.S. and asbestiform tremolite. Only the western talc and the asbestiform tremolite induced tumors in hamsters." (55 FR 4948).

Various mineralogic characterizations of the western talc have been made. Dr. Wylie, in cross-examination, reiterated her earlier characterization of the western talc, as fibrous form of tremolite. Dr. Wylie further explained "it wasn't obviously only a sample of asbestos. I think I referred to it as byssolite." However because evidence of that sample consists of one photograph of that material, Dr. Wylie cautioned against drawing "too many conclusions * * * about that one sample." (Tr. 5/9, p. 235.) OSHA agrees with Dr. Wylie and additionally notes that other deficiencies make the Smith study inconclusive. (See discussion in the preamble to the proposal, where OSHA noted the small number of animals, early death of many animals, lack of systematic characterization of fiber size and aspect ratio; 55 FR 4948).

The few additional animal studies undertaken to examine the toxicity of nonasbestiform ATA, either do not inform or do not show equivalent toxicity of ATA. The 1974 intraperitoneal injection rat study conducted by Pott et al, showed no tumor development for the animals injected with the primarily nonasbestiform actinolite sample (Ex. 479–6). The Cook studies of ferroactinolite fibers, show that the sample which was observed to undergo a higher degree of in vivo longitudinal splitting, resulted in more retained fibers, and in a higher concentration of retained fibers. Dr. Wylie noted that "(t)he durability of amphiboles in vivo is well known and the only way for this sample to break down into fibers of smaller widths is for separation of the fiber bundles to have occurred in vivo. They don't dissolve. Fiber bundles are the hallmark of asbestos and this characteristic is clearly revealed in the behavior of Coffin's ferroactinolite". (Tr. 5/9 at 104). Additional evidence was submitted in support of the view that the ferroactinolite sample was, in significant part, asbestiform. Thus, Dr. Lee concluded, based on his electron microscopic analysis, that as much as 61 percent of the sample may be asbestos with 33 percent existing as bundles (Ex. 490F Attach. A, p.2). OSHA concludes that it is more likely that the ferroactinolite sample that resulted in excess tumors is asbestiform and for that reason, the experimental results are not informative concerning the biological potential of nonasbestiform ATA.

OSHA believes that as a whole the animal experiments conducted confirm that for clearly differentiated dust populations, qualitative differences in carcinogenic potential exist between what is commonly considered "asbestos" and "cleavage fragments". Virtually all participants in this rulemaking agreed with this assessment. Even participants who endorsed regulation of nonasbestiform ATA as asbestos agreed that the longer, thinner fibers were more potent. (See Nicholson at Tr. 5/8, p. 60).

c. *Conclusions.* Based on the rulemaking record before it, OSHA reaffirms its preliminary determination in the proposal that there is insufficient evidence to conclude that nonasbestiform ATA present a health risk similar in kind and magnitude to that of their asbestiform counterparts.

Asbestos is regulated as a carcinogen. Some health effects data relating to nonasbestiform ATA involved exposures to mixed mineral populations or particles which were poorly characterized such that no conclusions could be made regarding the carcinogenicity of nonasbestiform ATA. In other cases there were health effects data in humans, reportedly exposed to nonasbestiform ATA, which did not show excess cancer risks similar to those observed among animals and humans exposed to asbestos. However some of these data suffer from methodological deficiencies (e.g., low fiber exposure, poor animal survival and poor mineralogical characterization). These flaws may limit the studies' ability to detect the carcinogenic potential of nonasbestiform ATA if one is present. However, in many of the studies, asbestiform and nonasbestiform minerals were tested in the same experiment using the same protocol and only the asbestiform minerals induced a positive response. Thus, while the studies' results cannot be used to show that nonasbestiform ATA presents no carcinogenic risk, due to certain methodological flaws, the results from these studies do suggest that if a carcinogenic risk does exist for nonasbestiform ATA, the risk is likely to be substantially less than that of asbestos. Given both the lower potency of any potential carcinogenic risk, and the high degree of uncertainty that would accompany any such estimate, OSHA believes the health effects evidence does not support treating nonasbestiform ATA as presenting a risk equivalent in kind or extent to asbestos.

In addition, OSHA finds that the evidence is insufficient to conclude that exposure to nonasbestiform ATA may result in a significant risk of

nonmalignant respiratory disease (NMRD). Unquestionably, exposure to historic levels of tremolitic talc carried with it a significant risk of NMRD (i.e. pneumoconiosis). For example, studies by NIOSH, of tremolitic talc miners and millers in upstate New York (Ex. 84–181, Docket H–033c) have shown an excess risk for NMRD (SMR=280), among exposed workers. Similar findings of excess NMRD have also been observed in updated studies of this same group of workers both by NIOSH (SMR=250) and Gamble et al (SMR=251) (Exs. 532 and 478–8). Moreover NIOSH concluded in their update, that the observed excess in NMRD is more consistently associated with exposures at the mine. NIOSH's conclusion is based on their observation that a larger excess risk is observed among those employees with greater than one year employment at the mine (SMR=289) compared to those employees with less than one year employment at the mine (SMR=194). Even officials at the mine acknowledge the NMRD risk associated with the tremolitic talc. For example, in his testimony at the hearings, John Kelse, an industrial hygienist for the R.T. Vanderbilt Company, stated that "(t)he Company has long believed that excess exposure to our talc—and indeed any talc or mineral dust, can result in pulmonary impairment. We have never claimed otherwise. Non-neoplastic respiratory disease has indeed occurred among our talc miners and to an alarming degree among those exposed prior to the advent of modern dust control systems. * * * We have never denied this pneumoconiosis potential." (Tr. 5/11 at 4–104). Similarly, Dr. Brian Boehlecke, testifying as a medical expert for the R.T. Vanderbilt Company, stated: "So my conclusion is that there is a risk of pneumoconiosis from exposure to the type of talc mined and processed at Gouverneur Talc. I believe this is recognized and acknowledged by the company." (Tr. 5/11 at 4–100).

However although exposures at the mine are attributed to the observed excess in NMRD among exposed workers, the data is insufficient to determine that the nonasbestiform tremolite is the causative agent. The tremolitic talc to which workers are exposed is composed of a variety of different minerals. The nonasbestiform tremolite, although a major constituent, is but one of those minerals. In addition, studies of workers exposed to talcs which do not contain nonasbestiform minerals, have also shown an excess risk of NMRD similar to the excess risk which has been observed among the New York State tremolitic talc workers. (See studies of Vermont Talc workers, Selevan et al; Ex. 479–4 Ex. A). Although the study is too imprecise to conclude that nonasbestiform minerals do not induce pulmonary disease, the study of the Vermont miners does suggest that some agent other than nonasbestiform minerals may be the causative agent in the induction of NMRD. Thus OSHA is unable to conclude that the nonasbestiform content in tremolitic talc is the etiologic agent of NMRD evident at high exposure levels. As a result, OSHA is also unable to conclude that nonasbestiform ATA presents a significant risk of NMRD.

VI. Other Regulatory Issues

a. *Regulatory Options*

In the proposal OSHA discussed a number of regulatory options to the proposed removal of nonasbestiform ATA from the asbestos standards. Because of OSHA conclusions regarding the health effects evidence, certain of these options are not supported by this rulemaking record.

(1) The first option discussed in the proposal is to continue to regulate ATA in the 1986 asbestos standards. The Agency has determined that on this record, there is a lack of substantial evidence to conclude that nonasbestiform ATA presents a risk of asbestos-related disease to exposed workers of similar incidence or magnitude to the risk created by asbestos. Therefore the evidence does not support regulating nonasbestiform ATA exposure in the same manner as asbestos exposure.

The health data are too uncertain to provide a basis for estimating potential risk from nonasbestiform ATA. This evidence is not sufficient to perform a reasonable independent risk assessment for ATA. Therefore, continuing regulation in the same standard, at a different PEL is not a viable option. OSHA concludes that the evidence and analyses available at this time do not show sufficient similarities between nonasbestiform ATA and asbestos to regulate them together.

(2) Another option was to continue to regulate nonasbestiform ATA under the 1972 asbestos standard. However, the conclusion that the record evidence is insufficient to show that nonasbestiform ATA presents a health risk similar in type and magnitude to asbestos and thus should not be regulated under the 1986 asbestos standards, substantially weakens a major rationale for regulating OSHA under the 1972 asbestos standard as well. The 1972 standard was based on the health effects of asbestos and not the nonasbestiform minerals.

Virtually all of the health data submitted and examined in this rulemaking was not available in 1972. Therefore, the determination of health effects for nonasbestiform ATA based on the record of this proceeding is based on more evidence and superior analyses than in any earlier asbestos rulemaking.

Also, OSHA's regulatory decisions are required by law to be based on "the best available evidence". (OSH Act, section 6(b)(5)). Although OSHA is not necessarily required to reopen regulatory determinations when new evidence is presented, once a rulemaking proceeding is held, and new, previously unavailable evidence is submitted to that record on important issues. OSHA may consider the issue in light of such new evidence. The agency notes that it stated its intention to make a new determination on the current record concerning the health effects of nonasbestiform ATA.

In addition, OSHA finds that removing nonasbestiform ATA from the scope of the 1972 asbestos standard will not pose a significant risk to employees exposed to those minerals. OSHA incorporates here, its previous discussion in the health effects section, which sets forth the Agency's view of the evidence relating to the non-malignant disease potential of ATA. The evidence available implicates talc containing ATA as a causative agent of nonmalignant respiratory disease; however, exposure to ATA alone is insufficiently linked to the production of such disease.

As noted above employees exposed to talc containing ATA will be protected under the Air Contaminants Standard (29 CFR 1910.1001). OSHA believes that the application of the talc limit in the Air Contaminants Standard, for that portion of their exposure which is related to talc, or the standard's mixture formula, will protect exposed employees against a significant risk of nonmalignant disease.

Also, removing the protection of the 1972 asbestos standard from workers exposed to nonasbestiform ATA will not leave them with a significant risk of developing malignant disease. OSHA has found that the available evidence is insufficient to conclude that exposure to nonasbestiform ATA is linked to the development of cancer. The suggestion that long thin fibers of nonasbestiform ATA, which exceed the dimensions for counting asbestos fibers, may have carcinogenic potential was not disproven by the evidence in this proceeding, however, neither was it supported by substantial evidence. Also, even if long, thin nonasbestiform ATA

fibers have some carcinogenic potential, the record shows that it is not likely that workers may be exposed to a significant risk from such fibers if the 2 f/cc limit of the 1972 standard is lifted.

First, evidence in the record indicates that, long, thin particles of nonasbestiform ATA occur infrequently. For example, in the industries using tremolitic talc, which are the industries with the highest potential exposure to ATA, there is little evidence that exposures to long, thin particles of nonasbestiform ATA have ever exceeded the 1972 asbestos limit of 2 f/cc. Nor is there evidence that nonasbestiform ATA particles, appearing as a contaminant of any other industrial product (e.g. crushed stone products), attain enhanced dimensions which, if measured, would exceed the 2 f/cc limit of the 1972 standard. Second, there are no dose-response data which can be used to derive a quantitative risk estimate for nonasbestiform ATA as a carcinogen, so OSHA's risk estimate for ATA would be based on qualitative information. The approach formerly considered most promising, basing ATA risk on asbestos risk, has been rejected by the Agency, as explained at length in this document. The Agency believes that no other qualitative approach to assessing nonasbestiform ATA carcinogenic risk is supported by the evidence.

Third, for the industries with the highest potential ATA exposure, which includes those which purchase tremolitic talc as a constituent of products such as ceramic tile and paint, the talc limit, and the mixture formula in the Air Contaminants Standard will apply. OSHA believes that these limits will protect employees against any possible excesses of any malignant disease as well as non-malignant disease.

Therefore, OSHA finds that removing nonasbestiform ATA from the 1972 standard meets the requirements set out by the Supreme Court for agency deregulation in Motor Vehicles Manufacturers Association v. State Farm Mutual Automobile Insurance Co. (State Farm), 463 U.S. 29, 1983, and is consistent with Agency interpretations of that decision.

(3) The third option discussed in the proposal is to exclude nonasbestiform ATA from the scope of the revised asbestos standards and to initiate a separate 6(b) rulemaking for either industrial talc (tremolitic talc) or nonasbestiform ATA minerals which attain certain dimensions, such as a 3:1 aspect ratio and are longer than 5 μm. As stated above, the results of OSHA's examination of the health effects evidence in this proceeding do not provide sufficient data to permit the Agency to estimate the risk, if any, to exposed employees from continued exposure at the 1972 asbestos standard's PEL of 2 f/cc, or at current exposure levels in covered places of employment. There was agreement among participants who addressed the issue that exposure to tremolitic talc at historic levels is associated with excess nonmalignant respiratory disease (see e.g., Dr. Boehlecke, testifying for R.T. Vanderbilt, at Tr. 5/10, pp. 100–101). OSHA's contractor estimated current exposure levels in industries using such talc containing products, even without local exhaust ventilation, as far less than such historic levels. (See CONSAD report, Ex. 465). No additional data concerning exposure levels of such workers was submitted to the rulemaking record. With no basis to estimate risk to exposed employees from talc containing nonasbestiform ATA, OSHA is unable to formulate a proposed standard to protect such workers at this time. As stated above, OSHA believes that the application of the appropriate exposure limits in the Air Contaminants Standard to exposures to constituents of tremolitic talc, and to ATA, will protect employees against significant risks of disease.

If further information is submitted to OSHA in the future, which shows that workers in industries using talc containing nonasbestiform ATA, or other nonasbestiform ATA using industries, are at present risk of developing exposure related disease, OSHA may reconsider this regulatory decision.

(4) The fourth option is to regulate nonasbestiform ATA under a specific listing in the air contaminants standard, including consideration of a listing for nonasbestiform ATA. OSHA has chosen this approach but nonasbestiform ATA will be covered by listing for particulates not otherwise regulated (PNOR) in Table Z–1–A of 1910.1000 (15 mg/m (total dust); 5 mg/m (respirable dust)), which is designed to protect against the significant risk of respiratory effects which all particulates create at higher levels of exposure.

OSHA is not regulating ATA under the listing for talc. OSHA notes that the health evidence concerning the nonmalignant disease potential of talc containing tremolite is not specific to any one component of the product, and there is evidence suggesting that talc, not containing nonasbestiform ATA, also may cause respiratory disease (See for example the preamble to the Air Contaminants Standard, 54 FR at 2526). Accordingly, OSHA revised the PEL for talc to 2 mg/m³ on January 19, 1989 (54 FR 2332 to 2983, 29 CFR 1910.1000). As talc causes respiratory disease and nonasbestiform ATA as a particulate causes respiratory effects, OSHA concludes that when workers are exposed to mixtures of such dusts with different PELs, the mixture formula applies. Where exposure is to talc containing nonasbestiform ATA, if the employer wishes to avoid separately identifying each component to apply the mixture formula, the entire product may be considered as the substance with the lower PEL.

b. *Fiber Definition Issues*

During this rulemaking the NSA and other participants requested that OSHA validate for industry a feasible method of distinguishing asbestos fibers from nonasbestiform particles or other mineral particles which meet the dimensional cutoffs in the asbestos standards. Further, OSHA is asked to define "asbestos" in terms of such differential counting strategy. NSA agrees with the Agency that when the environment is one in which "known asbestos is likely to be the only airborne particle of regulatory concern, it (3:1 aspect ratio criterion) can be an acceptable and economical basis for monitoring worker exposure to substances that pose health risks." (479–1G, p. 22). However, in the crushed stone industry, other particles, NSA insists, will be counted even though they are not asbestos, or even nonasbestiform minerals simply because they have attained aspect ratios of 3:1. OSHA does not believe these scenarios are realistic. The asbestos standards have been in effect since 1972; yet industry presented no data, evidence or testimony that showed the impact of the 3:1 aspect ratio on the crushed stone industry. Producers should know if their products contain asbestos fibers, by surveying deposits, examining hand samples, and doing bulk sampling.

The issue of whether individual fibers of ATA can be identified as to mineral type was further addressed by other witnesses. Dr. Arthur Langer, testifying on his own behalf, noted that "* * * in some instances single, isolated particles may be impossible to distinguish, i.e., acicular cleavage fragment from asbestiform fibril". (Ex. 517, Tab 5). Dr. Spooner pointed out that identification of an airborne fiber is hindered, when as happens in an industrial hygiene setting "we don't have the opportunity to know where the material is coming from, nor do we have the opportunity to look at a very large population of fibers * * *". (Tr. 5/8, p. 117–118). NIOSH testified

that it was "unaware of any routine analytical methods that can be used to differentiate between airborne exposures to asbestos fibers and nonasbestiform cleavage fragments that meet the microscopic definition of a fiber." (Tr. 5/9, p. 13).

The OSHA reference method may be insufficient in mixed fiber environments to distinguish asbestos from other particles in all cases. However, OSHA believes that currently, producers and users of mineral products feasibly identify asbestos and distinguish it from other mineral fibers or particles. Dr. Langer noted "I would use polarized light microscopy to characterize materials used in the work place or characterize mine environments. Someone has to go to some mine or quarry or operation or plant or factory to see whether or not asbestos materials are present, and there are standard techniques to analyze materials and find out whether or not asbestos is present. You could use phase contrast microscopy once you establish what you're dealing with." (Tr. 5/11 at 226). Dr. Langer recommended that OSHA define "asbestos" as certain minerals which display certain properties, which apply to "large aggregates". Such properties are for example, polyfilamentous bundles, made up of unit fibrils, displaying anomalous optical properties, etc. (Id at 227). Dr. Addison commented that for "at the last eight years we've been training a regular number of people in polarized light microscope techniques, * * * to recognize the characteristic properties on the macroscopic scale and on the microscopic scale, to come up with what we consider to be a fully authoritative identification of the material as asbestos. It's really not a difficult task." (Ibid).

Dr. Langer also noted that in his knowledge the former Manville Corporation routinely used polarized light microscopy in many of their plants to analyze air samples, where manmade vitreous fiber was mixed with asbestos fiber" (Tr. 5/11, p. 225).

OSHA also notes that differential counting of fibers has been performed by its laboratory and other laboratories in the past. According to the Agency's chief microscopist, identification of individual fibers is assisted by knowledge of the source of the contaminant, the industrial context, and the skill of the microscopist. (Ex. 410–23).

However, Dr. R.J. Lee, testifying on behalf of the NSA, presented a new analytical method for use in mixed mineral environments. (Ex. 490F) This method was presented as a differential counting procedure for assessing the asbestiform particle population in dusts that include both asbestiform and nonasbestiform particles. Dr. Lee's proposed method uses the current NIOSH 7400 PCM method but in addition incorporates steps to account for particles with widths less than 1 micrometer and particles which are bundles in order to differentiate between those particles which are fibers and those particles which are cleavage fragments.

During the hearing Dr. Lee was questioned as to the validity of this method and whether or not it would alter asbestos counts. In response to this questioning Dr. Lee conducted and submitted the results of a round robin analysis of his proposed method (Ex. 534). In the round robin analysis 6 different labs performed comparisons of particle counts on a variety of different dust samples using the current NIOSH 7400 PCM method and Dr. Lee's proposed method. Although somewhat limited, the results of the round robin analysis indicate that there is little variability between the asbestos fiber counts using the NIOSH method and the asbestos fiber counts using Lee's proposed method. However, according to Dr. Lee, the proposed method allows one to differentiate between asbestos fibers and nonasbestiform cleavage fragments more readily than current differential counting procedures.

Despite the fact that the proposed method appears to provide a feasible means of discriminating between asbestiform fibers and nonasbestiform cleavage fragments, OSHA is reluctant to change its current approved methodology based on such limited data (i.e. one round robin analysis), especially since the Agency notes that changes to the asbestos standards affect a much wider regulated community than participants in this rulemaking. OSHA believes that the adoption of any method would require more extensive testing using a broader range of samples more closely associated with the typical types of occupational exposures covered by the OSHA standards. In addition, considerable expenditures of time and money could be required to insure that labs are adequately training technicians and proficiently using the new method. Before such costs are imposed OSHA believes it would be prudent to better examine the validity of a new method. The Agency notes that the high hazard presented by asbestos exposure requires that any regulatory change affecting counting asbestos fibers err on the side of worker protection. OSHA believes that the burden on employers in affected industries to show that particles are not asbestos is not unreasonable, given the risk presented by undercounting of asbestos, and the claims that asbestos contamination of nonasbestiform products is not common. For these reasons, as well as the fact that OSHA has acknowledged and allowed the use of differential counting with the current method, the Agency does not believe it is either appropriate or necessary at this time to change its current analytical method. The Agency intends to include in its compliance policy governing mixed fiber settings, provision for the introduction of appropriate evidence concerning fiber width, and other relevant evidence to show that particles counted by PCM are not asbestos fibers.

As discussed in the NPRM, rather than change the analytical procedure, Dr. Ann Wylie proposed changing the aspect ratio from 3:1 to 10:1 as a means of discriminating between asbestos fibers and nonasbestiform cleavage fragments (See 55 FR 4951–52). Dr. Wylie reiterated her proposal in the hearings and presented evidence to show that when populations of particles are viewed with respect to the distribution of their aspect ratios, one can easily distinguish between populations of asbestos fibers and populations of cleavage fragments (Tr. 5/9, pp. 102–107). Dr. Wylie stated that for particles which are greater than 5 μm in length, the majority of nonasbestiform particles have aspect ratios less than 10:1 and the majority of asbestos particles (i.e. fibers) have aspect ratios greater than 10:1. Thus she concluded that changing the aspect ratio from 3:1 to 10:1 provides a means of excluding nonasbestiform particles from particles counts while maintaining the same asbestos particle counts one would have obtained using a 3:1 aspect ratio. However as noted above in this discussion, Dr. Spooner points out that Dr. Wylie's observations, as do her definitions of asbestos, apply to populations of particles and the analyst is often not looking at a population of particles when viewing air exposure monitoring samples (Tr. 5/8, pp. 117–118). Moreover as was noted in the proposal, OSHA is reluctant to change its current method based on the findings of one report. OSHA reaffirms its earlier finding and is not, in this rule, changing its dimensional criteria for aspect ratio in its definition of asbestos.

VII. Summary and Explanation of the Amendments

1. Definitions

Asbestos

In the 1986 revised asbestos standards (29 CFR 1910.1001 and 1926.58) OSHA

amended its definition of asbestos in recognition of the fact that different mineral forms exist. "Asbestos was defined to include only the six asbestiform minerals chrysotile, crocidolite, amosite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos. However in these 1986 revised standards OSHA also added a definition for tremolite, anthophyllite and actinolite. Tremolite, anthophyllite or actinolite without a modifying term such as asbestos or asbestiform referred to only the nonasbestiform forms of these minerals. This definition was added to make clear that all mineral forms would continue to come under the scope of the revised standards.

In this final rule OSHA retains its definition of asbestos as stated in the 1986 revised standards. However the Agency is removing the nonasbestiform minerals from the scope of the revised standards for asbestos and from all paragraphs, and appendices which reference "nonasbestiform tremolite, anthophyllite and actinolite". This removal is based on the determination, made by the Agency, that the health effects data is insufficient to conclude that the nonasbestiform forms of tremolite, anthophyllite and actinolite present the same magnitude or type of effect as their asbestiform analogues.

VIII. Authority

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210.

Accordingly, pursuant to sections 4(b), 6(b), 8(c), and 8(g) of the Occupational and Safety and Health Act of 1970 (U.S.C. 655, 657), 29 CFR part 1911 and Secretary of Labor's Order No. 9–83 (48 FR 35736), Construction Work Hours and Safety Standard Act (Construction Safety Act), 40 U.S.C. 333, 29 CFR parts 1910 and 1926 are amended as set forth below.

List of Subjects

29 CFR Part 1910

Asbestos, Hazardous substances, Occupational safety and health.

29 CFR Part 1926

Asbestos, Construction industry, Hazardous substances, Occupational safety and health.

Signed at Washington, DC on this 29th day of May, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary.

Part 1910 of title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1910—[AMENDED]

Subpart Z—[Amended]

1. The authority citation for subpart Z of part 1910 continues to read as follows:

Authority: Secs. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033) as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table A–1–A, which have identical limits listed in the Transitional Limits columns of Table A–1–A, Table A–2 or Table A–3. The latter were issued under Section 6(a) (2a U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns for Table Z–1–A, Table Z–2 and Table Z–3 also issued under 5 U.S.C. 553. Section 1910.1000 the Transitional Limits Column of Table Z–1–A, Table Z–2 and Table Z–3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

Section 1910.1001 also issued under section 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 CFR part 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1028 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under 20 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 *et seq.*

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1048 also issued under 29 U.S.C. 653.

Sections 1910.1200, 1910.1499, and 1910.1500 also issued under 5 U.S.C. 553.

Section 1910.1450 is also issued under sec. 6(b), 8(c) and 8(g)(2), Pub. L. 91–596, 84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657.

§1910.1001 [Amended]

2. Section 1910.1001 (including the appendices to the section) is amended as follows:

a. By revising the term "Asbestos, tremolite, anthophyllite, and actinolite" to read "Asbestos" in the section heading, paragraph (j)(4)(i), and appendices B and G.

b. By revising the term "asbestos, tremolite, anthophyllite, and actinolite" to read "asbestos" in the following places: Paragraphs (a)(1), (a)(2), (h)(2)(iii), (h)(3)(ii), (i)(3)(iv), and (j)(5)(iii)(B) and Appendices A, B, G, and H.

c. By revising the term "Asbestos, Tremolite, Anthophyllite, and Actinolite" to read "Asbestos" in paragraph (g)(2) Table 1 heading and Appendices B, H, and I.

d. By revising the term "asbestos, tremolite, anthophyllite or actinolite" to read "asbestos" in the following places: Paragraphs (b) (in the definition for "fiber"), (e)(2), (f)(1)(vi), (f)(1)(viii), (f)(1)(ix), (h)(2)(i), (h)(3)(v), (j)(2)(i), (j)(3), j(5)(iii)(A), (j)(5)(iii)(C), (j)(5)(iii)(E), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), (l)(2)(i), (l)(7)(i)(A), (l)(7)(i)(C), (l)(7)(ii), (m)(1)(i), (m)(1)(ii)(B), (m)(2)(i), (m)(2)(ii)(C), (m)(3)(ii)(C), (n)(1) and (n)(2).

e. By revising the term "asbestos, tremolite, anthophyllite, and actinolite, or a combination of these minerals" to read "asbestos" in paragraph (h)(3)(iii).

f. By revising the term "asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals" to read "asbestos" in the following places: Paragraphs (b) (in the definitions for "action level", "employee exposure", and "regulated area"), (c)(1), (c)(2), (d)(2)(iii), (e)(1), (f)(1)(v), (f)(1)(viii), (g)(2) Table 1, (h)(1), (h)(3)(iv), (i)(1)(i), (j)(4)(i), (j)(5)(i), (l)(1)(i) and (l)(4)(i) and Appendices D and H.

g. By revising the term "Asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals" to read "Asbestos" in paragraph (j)(4)(ii).

h. By removing in paragraph (b) Definitions, the definition "Tremolite, anthophyllite, or actinolite".

i. By removing and reserving paragraph (j)(1)(iii) and by removing paragraph (j)(2)(iii).

j. By removing the Note on the administrative stay at the end of the section.

§ 1910.1101 [Removed]

3. Section 1910.1101 is removed.

Part 1926 of title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1926—[AMENDED]

Subpart D—[Amended]

4. The authority citation for subpart D of part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction

Safety Act) (40 U.S.C. 333); sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), as applicable.

Section 1926.59 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

§ 1926.58 [Amended]

5. Section 1926.58 (including the appendices to the section) is amended as follows:

a. By revising the term "Asbestos, tremolite, anthophyllite, and actinolite" to read "Asbestos" in the section heading, paragraph (a)(5), and appendix H.

b. By revising the term "Asbestos, Tremolite, Anthophyllite, and Actinolite" to read "Asbestos" in paragraph (h)(2) Table D–4 heading and in appendices B, I, and J.

c. By revising the term "asbestos, tremolite, anthophyllite, and actinolite" to reads "asbestos" in the following places: Paragraphs (k)(3)(iii)(A), (k)(3)(iii)(C), and (k)(3)(iii)(D), and appendices A, B, H, and I.

d. By revising the term "Asbestos, tremolite, anthophyllite, or actinolite" to read "Asbestos" in paragraph (k)(2)(vi)(A).

e. By revising the term "asbestos, tremolite, anthophyllite, or actinolite" to read "asbestos" in the following places: Paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (b) (in the definitions for "competent person", "decontamination area", "demolition", "fiber", "regulated area", "renovation", and "repair"), (d), (e)(6)(iii), (f)(2)(i), (f)(2)(ii), (f)(2)(iii), (f)(7)(i), (f)(7)(ii), (g)(1)(i)(D), (g)(2)(i), (j)(2)(i), (j)(2)(iii)(A), (k)(2)(i), (k)(2)(v), (k)(3)(iii)(B), (l)(1), (m)(4)(i)(A), (m)(4)(i)(C), (m)(4)(ii), (n)(1)(i), (n)(1)(ii)(C), (n)(2)(i), (m)(2)(ii)(B) and (n)(3)(ii)(D).

f. By revising the term "asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals" to read "asbestos" in the following places: Paragraphs (b) (in the definitions for "action level", "employee exposure", and "regulated area"), (c)(1), (e)(1), (e)(2), (f)(1)(i), (f)(2)(ii), (h)(2) Table D–4, (i)(1), (i)(2)(i), (i)(2)(ii), (j)(1)(iii), (k)(1)(i), (k)(2)(vi)(A), (k)(2)(vi)(B), (k)(3)(i), (m)(1)(i), and (m)(2)(i)(B) and appendix D.

g. By revising the term "asbestos, tremolite, anthophyllite, or actinolite or a combination of these minerals" to read "asbestos" in paragraph (n)(1)(i).

h. By revising the term "asbestos, tremolite, anthophyllite, actinolite" to read "asbestos" in the following places: Paragraph (e)(6)(iii).

i. By revising the term "asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite" to read "asbestos" in the following places: Paragraphs (b) (in the definition for "removal") and (g)(2)(ii).

j. By removing in paragraph (b) Definitions, the definition "Tremolite, anthophyllite and actinolite".

k. By removing and reserving paragraphs (k)(1)(iii) and (K)(2)(iv).

l. By removing the Note on the administrative stay at the end of the section.

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Monday
June 8, 1992

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Administration

48 CFR Parts 2401, et al.

HUD Acquisition Regulation; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

48 CFR Parts 2401, 2402, 2403, 2405, 2406, 2409, 2413, 2414, 2415, 2416, 2419, 2425, 2426, 2428, 2432, 2433, 2436, 2437, 2446, 2452

[Docket No. R-91-1600; FR-2473-P-01]

RIN 2535-AA16

HUD Acquisition Regulation (HUDAR)

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the HUD Acquisition Regulation (HUDAR) to reflect recent changes to the Federal Acquisition Regulation (FAR) and to make technical corrections. This rule would also amend the HUDAR to reflect a change in procurement authority for the Acquired Property program.

DATES: Comment due date: August 7, 1992.

ADDRESSES: Interested parties are invited to submit comments regarding this proposed rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. eastern time) at the above address.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, room 5262, 451 Seventh Street, SW., Washington, DC 20410–3000 (voice (202) 708–0294, TDD (202) 708–1112). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Other Information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

A. Background

The uniform regulation for the procurement of supplies and services by Federal departments and agencies, the Federal Acquisition Regulation (FAR), was promulgated on September 19, 1983 (48 FR 42102). The FAR is codified in title 48, chapter 1, of the Code of Federal Regulations. HUD promulgated its regulation to implement the FAR on March 1, 984 (49 FR 7696).

The HUDAR (title 48, chapter 24, of the Code of Federal Regulations) is prescribed by the Assistant Secretary for Administration under section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); the Secretary's delegation effective January 19, 1976 (41 FR 2665); and the general authorization in FAR 1.301.

The purpose of this proposed rule would be to amend the HUD Acquisition Regulation (HUDAR) to update existing coverage and to include additional necessary procedures to reflect recent changes to the Federal Acquisition Regulation (FAR).

HUDAR 2401.601–70, 2402.101, 2406.304–70, 2409.504, 2413.505, 2414.406–3, 2415.407, 2415.608, 2416.504, 2426.201, 2428.203, 2428.203–70, 2432.402, 2437.110, and 2446.710 contain editorial corrections, clarifications, and office changes. HUDAR 2403.670, 2437.110, and 2452.203–70 would be added to implement FAR 3.601.

HUDAR 2406.304–71, 2409.503, 2415.612–70, 2415.613, 2415.613–70, 2415.613–71, 2415.613–72, 2425.402, 2432.906, and 2452.215–71 would be included to implement recent changes to the FAR and General Services Board of Contract Appeals (GSBCA) decisions on approval of justifications for other than full and open competition, debarment, the authority of the Contracting Officer, the application of the Trade Agreements Act, prompt payment, agency protests, and DUNS numbers.

HUDAR 2409.502 and 2437.2 would make changes to reflect new terminology in OMB Circular A–120, Guidelines for the Use of Advisory and Assistance Services, and the FAR. HUDAR 2415.407, 2437.110, 2452.215–70, and 2452.237–76 would be added to implement OMB Circular A–130, Management of Federal Information Resources. HUDAR 2437.110 and 2452.237–77 would be added to provide procedures for handling legal holidays for services performed on-site in HUD buildings. HUDAR 2419.708 and 2452.219–70 would be added to implement FAR 19.704 and provide instructions to offerors regarding subcontracting plans. HUDAR 2409.501 and 2415.611 would be deleted.

HUDAR 2401.601–70, 2401.601–72, 2401.601–73, 2401.601–74, 2401.603–3, 2402.101(3) through 2402.101(6), 2406.304–70, 2406.304–71, 2406.304–72, 2414.406–3, and 2433.104–70 are revised to reflect the transfer of the procurement responsibilities of the Acquired Property Program from the Office of Housing to the Office of Administration.

The Department will request that the Federal Acquisition Regulation be amended to include the proposed coverage at HUDAR 2415.612–70, 2452.203–70, 2452.203–71, 2452.215–70, 2452.219–70, and 2452.237–77. If the FAR is amended before the Department issues a final rule, the cited HUDAR coverage will be removed; if not, those sections will be designated as an interim rule.

B. Other Matters

Paperwork Reduction Act

The information collection requirements contained sections 2452.203–71, 2452.215–70, 2452.219–70, and 2452.237–76 of this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. The following table discloses the Department's estimated burden for each of the collections of information in this rule:

Description	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Certification (2452.203-71)	300	1	300	0.1	30
Proposal preparation (2452.215-70)	40	1	40	1.0	40
Subcontracting plan (2452.219-70)	25	1	25	0.5	12.5
Security information (2452.237-76)	40	2	80	1.0	80
Total Annual Burden Hours					162.5

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) (NEPA) is unnecessary, since the activities described in this rule are categorically excluded from the Department's NEPA procedures under 24 CFR 50.20(k).

Executive Order 12291, Federal Regulation

This rule would not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291, *Federal Regulation*, issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities because the changes relate to the internal organization of HUD and conform the HUDAR to the FAR.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The requirements of this proposed rule would update the HUD Acquisition Regulation (HUDAR) to reflect recent changes to the Federal Acquisition Regulation (FAR) and would make technical corrections to the agency's regulation. As a result, the rule is not subject to review under the Order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule would not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The proposed rule involves Departmental procedures.

Semiannual Agenda of Regulations

This proposed rule was listed as Item No. 1483 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53386) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 48 CFR Parts 2401, 2402, 2403, 2405, 2406, 2409, 2413, 2414, 2415, 2416, 2419, 2425, 2426, 2428, 2432, 2433, 2436, 2437, 2446, 2452

Government procurement, HUD acquisition regulations.

Accordingly, title 48, chapter 24 of the Code of Federal Regulations, would be amended as follows:

SUBCHAPTER A—GENERAL

PART 2401—FEDERAL ACQUISITION REGULATION SYSTEM

1. The authority citation for 48 CFR part 2401 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2. Section 2401.601–70 would be revised to read as follows:

2401.601–70 Senior Procurement Executive.

The Assistant Secretary for Administration is the Department's Senior Procurement Executive and is responsible for all Departmental procurement policy, regulations, and procedures, except for internal procedures related to programmatic procurements of the Government National Mortgage Association. The Senior Procurement Executive is also responsible for the development of HUD's procurement system standards, evaluation of the system in accordance with approved criteria, enhancement of career management of the procurement work force, and certification to the Secretary that the Department's procurement system meets approved criteria.

2401.601–72 [Removed]

3. Section 2401.601–72 would be removed.

2401.601–73 [Redesignated as 2401.601–72]

4. Section 2401.601–73 would be redesignated as 2401.601–72.

2401.601–74 [Redesignated as 2401.601–73 and Revised]

5. Section 2401.601–74 would be redesignated as 2401.601–73 and revised to read as follows:

2401.601–73 Regional Offices.

(a) Procurement of supplies and services for HUD Regional requirements is accomplished at each Regional Office by the Regional Contracting Division, which may redelegate contracting authority to qualified Administration employees in Regional and Field Offices.

(b)(1) The Regional Administrator shall redelegate to Field Office Directors of Housing Management the following procurement authority related to the management or disposition of properties owned or held by HUD as mortgagee-in-possession under the National Housing Act (12 U.S.C. 1701–1749):

(i) Emergency procurement authority (pursuant to FAR 6.302–2); and

(ii) In those Field Offices without full-time contracting personnel, small purchase authority (pursuant to FAR part 13).

(2) The Regional Administrator may also redelegate small purchase authority to Office of Housing employees designated by the Field Office Director of Housing Management in those Field

Offices without full-time contracting personnel.

(c) Any redelegation of procurement authority in paragraphs (a) and (b) of this section shall be accomplished on a Standard Form 1402, Certificate of Appointment, which may be revoked upon a showing that the individual has consistently failed to adhere to sound procurement practices. Any revocation of authority in paragraph (b) of this section shall only occur after consultation with the Assistant Secretary for Housing-Federal Housing Commissioner.

2401.603–3 [Amended]

6. Section 2401.603–3, paragraph (b) would be amended by removing the words "Field Office Managers or Supervisors" and adding, in their place, the words "Appointing officials."

PART 2402—DEFINITIONS OF WORDS AND TERMS

7. The authority citation for 48 CFR part 2402 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2402.101 [Amended]

8. In section 2402.101, under the definition "Head of Contracting Activity" paragraphs (3), (4), and (5) would be removed, and paragraph (6) would be redesignated as paragraph (3).

PART 2403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

9. The authority citation for 48 CFR part 2403 would be revised to read as follows:

Authority: 42 U.S.C. 3535(d).

Subpart 2403.3—[Amended]

10. The heading for subpart 2403.3 would be amended by removing the words "Identical Bids and".

11. A new section 2403.670 would be added to subpart 2403.6, to read as follows:

2403.670 Solicitation provision and contract clause.

Insert the clause at 2452.203–70 in solicitations and contracts, and the provision at 2452.203–71 in solicitations, where the contracting officer has reason to believe that one or more offerors may be owned or controlled by Government employees.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 2405—PUBLICIZING CONTRACT ACTIONS

12. The authority citation for 48 CFR part 2405 would be revised to read as follows:

Authority: 42 U.S.C. 253; 40 U.S.C. 486(c); 42 U.S.C. 3535(d); and FAR class deviation approved November 15, 1990.

13. Subpart 2405.3, consisting of section 2405.301, would be added to read as follows:

Subpart 2405.3—Synopses of Contract Awards

2405.301 General

(b) All contract awards exceeding the small purchase limitation shall be synopsized in the Commerce Business Daily, without exception.

PART 2406—COMPETITION REQUIREMENTS

14. The authority citation for 48 CFR part 2406 would be revised to read as follows:

Authority: 42 U.S.C. 253; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2406.304–70 [Removed]

15. Section 2406.304–70 would be removed.

2406.304–71 [Redesignated as 2406.304–70]

16. Section 2406.304–71 would be redesignated as 2406.304–70.

2406.304–72 [Redesignated as 2406.304–71]

17. Section 2406.304–72 would be redesignated as 2406.304–71.

PART 2409—CONTRACTOR QUALIFICATIONS

18. The authority citation for 48 CFR part 2409 would be revised to read as follows:

Authority: 40 U.S.C. 486 (c); 42 U.S.C. 3535(d).

2409.501 [Removed]

19. Section 2409.501 would be removed.

2409.502 [Amended]

20. Section 2409.502 would be amended by removing the words "consulting services" and adding, in their place, the words "advisory and assistance services".

21. A new section 2409.503 would be added, to read as follows:

2409.503 Waiver

The Senior Procurement Executive is authorized to waive any general rule or procedure in FAR Subpart 9.5 by determining that its application to a particular situation would not be in the Government's interest.

2409.504 [Amended]

22. Section 2409.504 would be amended by revising the introductory text to read as follows:

2409.504 Contracting officer responsibilities.

The following actions are required for all contract actions covered by 2409.502:

* * * * *

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACTING TYPES

PART 2413—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

23. The authority citation for 48 CFR part 2413 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

24. In section 2413.505–2, paragraph (b) would be revised to read as follows:

2413.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

* * * * *

(b) For small purchases under the Acquired Property Program, Contracting Officers may use HUD Form 2542, Purchase Order and Payment Authorization. This form may also be used for the following:

(1) Construction work under the small purchase limitation; however, if over $2,000, the Davis-Bacon Act and related requirements/clauses are applicable; or

(2) Services, including indefinite delivery purchase orders; however, if over $2,500, the Service Contract Act and related requirements/clauses are applicable.

PART 2414—SEALED BIDDING

25. The authority citation for 48 CFR part 2414 would be revised to read as follows:

Authority: 41 U.S.C. 253; 42 U.S.C. 486(c); 42 U.S.C. 3535(d).

26. Section 2414.403–3 would be revised to read as follows:

2414.406–3 Other mistakes disclosed before award.

(e) The determination to allow a bidder to: Correct a mistake in bid discovered before award (other than obvious clerical errors); withdraw a bid;

or, neither correct nor withdraw a bid shall be submitted to the Head of the Contracting Activity for approval.

PART 2415—CONTRACTING BY NEGOTIATION

27. The authority citation for 48 CFR part 2415 would be revised to read as follows:

Authority: 41 U.S.C. 253; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

28. In section 2415.407, paragraph (a) would be revised to read as follows:

2415.407 Solicitation provisions.

(a) The Contracting Officer shall insert a provision substantially the same as the provision at 2452.215–70, Proposal Content and Outline, in all negotiated solicitations above the small purchase limitation. Include section 6 in paragraph (b) of the provision if the solicitation requires work on or access to sensitive automated systems and HUDAR clause 2452.237–76 is included.

* * * * *

2415.608 [Amended]

29. In section 2415.608, paragraph (a)(3)(iii) would be amended by removing the words "negotiation and award" at the end of the sentence, and by adding, in their place, the words "negotiation and/or award;"

2415.611 [Removed]

30. Section 2415.611 would be removed.

2415.613 [Redesignated as 2415.612 and Revised]

31. Section 2415.613 would be redesignated as section 2415.612 and revised to read as follows:

2415.612 Formal source selection.

(a) *General.* For those procurements with an estimated dollar amount of $500,000 or more, the following procedures apply. These procedures, which are more formal than those applying to procurements under $500,000, may also be used at the request of the funding Assistant Secretary for procurements under $500,000.

(b) *Responsibilities.* (1) Selection of the source(s) for award shall be made by the Source Selection Official (SSO), who is the head of the funding office, or by his or her designee.

(2) To assist the SSO in evaluating proposals and making the selection, the SSO shall designate a Source Evaluation Board (SEB) composed of a chairperson, voting members, and advisors.

32. A new section 2415.612–70 would be added to read as follows:

2415.612–70 Procedures.

(a) *Evaluation.* (1) After the date for receipt of proposals, the Contracting Officer will forward copies of the technical portion of each proposal to the SEB Chairperson or his or her designee, who shall be responsible for custody of the proposals throughout the evaluation process. The cost portion of each proposal shall be retained by the Contracting Officer pending initial technical evaluation by the SEB.

(2) The SEB shall evaluate each proposal in strict conformance with the requirements in 2415.608(a)(2).

(3) After the initial technical evaluation, the Contracting Officer and the SEB shall evaluate the cost portion of each proposal.

(b) *Competitive range.* Unless the SEB is prepared to recommend, in accordance with FAR 15.610(a)(3), that the award be made on the basis of the most favorable initial proposal, the Contracting Officer shall, with the advice of the SEB, establish a competitive range based on evaluation of all the factors for award, including cost or price.

(c) *Written or oral discussions.* The contracting Officer, with the assistance of the SEB, shall conduct written or oral discussions with all offerors within the competitive range, as required by FAR 15.610.

33. Section 2415.613 would be added to read as follows:

2415.613 Alternative source selection procedures.

(a) The Department of Housing and Urban Development uses procedures authorized by FAR 15.613 for all research and development contracts and other contracts where the contractor's proposed methodology of carrying out the work is a significant selection factor.

(b) These procedures allow for limited oral or written discussions to avoid technical levelling, a request for best and final offers, and selection of source(s) for negotiation of a final contract.

34. Section 2415.613–70 would be revised to read as follows:

2415.613.70 Technical evaluation.

Depending on the anticipated dollar value of the procurement (see 2415.604 and 2415.612(a)), either a TEP or SEB shall perform the required technical evaluation of proposals received in accordance with 2415.608 and 2415.612, respectively.

35. Section 2415.613–71 would be revised to read as follows:

2415.613–71 Limited written or oral discussions.

Limited written or oral discussions shall be conducted with each offeror considered to be within the competitive range. These discussions should address technical weaknesses of the particular offer, as well as cost issues, to the fullest extent practicable while avoiding technical leveling.

36. A new section 2415.613–72 would be added to read as follows:

2415.613–72 Selection and final negotiation.

(a) *Selection.* After the close of discussions and receipt of best and final offers, the TEP or SEB shall perform a final evaluation and prepare its selection recommendation for the contracting officer or SSO, respectively. Based on this evaluation, the contracting officer or SSO shall select for final contract negotiation the offeror(s) whose proposal is most advantageous to the Government in terms of price/cost, technical and other relevant factors included in the solicitation.

(b) *Final negotiation.* This includes reaching agreement with the selected source on any remaining cost/price, technical, socioeconomic, or other issues that will condition performance of the contract and setting forth those terms and conditions in a mutually acceptable contract document. No factor or condition that could have had any effect on the selection process may be changed at this point. These negotiations are led by the contracting officer and may include any technical, audit, or support personnel he/she deems necessary.

PART 2416—TYPES OF CONTRACTS

37. The authority citation for 48 CFR part 2416 would continue to read as follows:

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

38. Section 2416.504 would be revised to read as follows:

2416.504 Indefinite-quantity contracts.

(e) The contracting officer shall insert the clause at 2452.216–75, Unpriced Task Orders, in contracts for which task orders are individually negotiated and there may be a need to issue unpriced task orders; provided, however, that the contracting officer shall ensure that the cost of the work authorized by the task order is not in excess of the funds obligated under the contract.

PART 2419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

39. The authority citation for 48 CFR part 2419 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

40. Subpart 2419.7 consisting of section 2419.708, would be added to read as follows:

Subpart 2419.7—Subcontracting with Small Businesses and Small Disadvantaged Business Concerns

2419.708 Solicitation provisions and contract clauses.

(d) The Contracting Officer shall insert the provision at 2452.219–70 in negotiated solicitations exceeding $500,000.

(e) The Contracting Officer shall insert the provision at 2452.219–70 with Alternate I in sealed bid solicitations exceeding $500,000.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

41. A new part 2425, consisting of section 2425.402, would be added to read as follows:

PART 2425—TRADE AGREEMENTS ACT

Authority: 42 U.S.C. 3535(d).

2425.402 Policy.

It is the Department's policy to determine whether the Trade Agreements Act applies based on the total estimated dollar value of the proposed acquisition before the solicitation is issued, including all line items and options.

PART 2426—OTHER SOCIOECONOMIC PROGRAMS

42. The authority citation for 48 CFR part 2426 would be added to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2426.201 [Amended]

43. Section 2426.201 would be amended by removing the term "OSDBU", wherever it appears, and inserting in its place the words "Deputy Assistant Secretary for Intergovernmental Relations, in coordination with OSDBU".

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 2428—BONDS AND INSURANCE

44. The authority citation for 48 CFR part 2428 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2428.203 and 2428.203–70 [Redesignated as 2428.204 and 2428.204–70]

45. Sections 2428.203 and 2428.203–70 would be redesignated as sections 2428.204 and 2428.204–70, respectively.

PART 2432—CONTRACT FINANCING

46. The authority citation for 48 CFR part 2432 would be revised to read as follows:

Authority: 31 U.S.C. 3901–3906; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

47. Section 2432.402 would be revised to read as follows:

2432.402 General.

(e)(1) The Determination and Findings required by FAR 32.402(c)(1)(iii) shall be made by the Director, Office of Procurement and Contracts for Headquarters contracts, or the Director of Administration, for Regional/Field contracts.

(2) Each advance payment situation shall be coordinated with the Office of Finance and Accounting, for Headquarters, or the Regional Accounting Division, for Regional/Field contracts, before authorization may be given, to ensure that there are controls in place to assure proper administration of advance payments.

48. A new section 2432.906 would be added to subpart 2432.9, to read as follows:

2432.906 Contract financing payments.

Periods for payment shorter than 30 days shall not be specified in contracts without the prior approval of the Office of Finance and Accounting, for Headquarters contracts, and shall be coordinated with the Regional Accounting Division, for Regional/Field Office contracts, to ensure that procedures are in place to allow timely payment.

PART 2433—PROTESTS, DISPUTES, AND APPEALS

49. The authority citation for 48 CFR part 2433 would be revised to read as follows:

Authority: 31 U.S.C. 3551–3556; 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

50. Section 2433.103 would be revised to read as follows:

2433.103 Protests to the agency.

(a)(2) When the Contracting Officer makes a determination to award a contract notwithstanding a protest, as authorized by FAR 33.103(a)(2), that determination shall be approved by the HCA before award, after consultation with the Office of General Counsel.

(a)(4) Protests received after award that are filed only with the Department shall be decided promptly by the Contracting Officer after consultation with appropriate officials, including the program office and the Office of General Counsel.

2433.103–70 [Removed]

51. Section 2433.103–70 would be removed.

2433.103–71 [Redesignated as 2433.103–70]

52. Section 2433.103–71 would be redesignated as section 2433.103–70.

2433.104–70 [Removed]

53. Section 2433.104–70 would be removed.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 2436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

54. The authority citation for 48 CFR part 2436 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

2436.602–2 [Amended]

55. Section 2436.602–2(a) would be amended to add the words "(which may include preselection boards)" after the words "permanent or ad hoc" in the first sentence.

2436.602–5. [Amended]

56. Section 2436.602–5 would be revised to replace the number "$10,000" with the words "the small purchase limitation".

PART 2437—SERVICE CONTRACTING

57. The authority citation for 48 CFR part 2437 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

Subpart 2437.2—Advisory and Assistance Services

58. Subpart 2437.2 would be retitled to read as set forth above.

59. In section 2437.110, new paragraphs (g) and (h) would be added to read as follows:

2437.110 Solicitation provisions and contract clauses.

* * * * *

(g) The contracting officer shall insert the clause at 2452.237–76 in solicitations and contracts that involve work on or access to sensitive automated systems.

(h) The Contracting Officer shall insert the clause at 2452.237–77, Observance of Legal Holidays and Administrative Leave, in all solicitations and contracts where contractor personnel will be working on-site in any HUD office.

2437.205 [Amended]

60. In section 2437.205, paragraph (b)(6) would be amended by removing the words "consulting services" wherever they appear, and adding in their place the words "advisory and assistance services".

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 2446—QUALITY ASSURANCE

61. The authority citation for 48 CFR part 2446 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

62. A new subpart 2446.7 consisting of section 2446.710 would be added to read as follows:

Subpart 2446.7—Warranties

2446.710 Contract clauses.

(c)(1) The contracting officer may include a clause substantially the same as FAR 52.246–19, Warranty of Systems and Equipment under Performance Specifications or Design Criteria, whenever it is in the Government's interest.

SUBCHAPTER H—CLAUSES AND FORMS

PART 2452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

63. The authority citation for 48 CFR part 2452 would be revised to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

64. A new section 2452.203–70 would be added to read as follows:

2452.203–70 Prohibition against the use of Federal employees.

As prescribed in 2403.670, insert the following clause in solicitations and contracts:

Prohibition Against the Use of Federal Employees

([Insert month and year of final rule])

In accordance with Federal Acquisition Regulation 3.601, contracts are not to be awarded to Federal employees or a business concern or other organization owned or substantially owned or controlled by one or more Federal employees. For the purposes of this contract, this prohibition against the use of Federal employees includes any work performed by the Contractor or any of its employees, subcontractors, or consultants.

[End of clause]

65. A new section 2452.203–71 would be added to read as follows:

2452.203–71 Certification regarding Federal employment.

As prescribed in 2403.670, insert the following provision in solicitations:

Certification Regarding Federal Employment

([Insert month and year of final rule])

The offeror certifies that it is [ ], is not [ ] owned or substantially owned or controlled by one or more Federal employees.

[End of provision]

66. In 2452.215–70, paragraph (b) of the provision would be amended by adding a new section 6 to the end of the paragraph, and by revising paragraph (c) and (d), to read as follows:

2452.215–70 Proposal content and outline.

* * * * *

(b) *Part I—Technical and Management.*

* * * * *

Section 6: *Security Investigation.* The offeror shall address in its technical proposal how it intends to manage the security of automated systems as required by HUDAR clause 2452.237–76. This includes developing security procedures, requesting background investigations for employees and subcontractors as required, and requesting investigations for replacements of such individuals as necessary due to turnover, rotation, or other reasons.

(c) *Part II—Cost and Pricing Data.* (1) Furnish cost or pricing data using the SF–1411, Contract Pricing Proposal, provided in Section L of this solicitation, and the instructions attached to it, which are also printed at FAR 15.804–6. Round all amounts to the nearest dollar. Your data will be subject to review and evaluation by various Government personnel, and thus the estimates furnished on the SF–1411 should be supported by the required supplementary data so that the review and evaluation can be conducted with a minimum amount of delay and effort. In particular, ensure that the following essential elements are provided:

(i) A summary of total cost by cost element cross-reference to each proposed contract line item (instruction number 1).

(ii) Identification of the basis for the kinds, quantities, and cost of all material elements proposed; and a consolidated priced summary of individual material quantities, or a consolidated priced bill of material (BOM), for the entire proposal. A well prepared BOM includes: part number/description, unit cost, quantity required, any nonrecurring costs, extended cost, and basis for the proposed price (quotation, prior buy, similar item, etc.) (instruction number 1, Materials).

(iii) For each subcontract over $100,000 show: source, deliverable, quantity, price, type of subcontract, degree of competition, basis for selecting vendor and establishing reasonableness of price. When required, the subcontractor's cost or pricing data must be submitted with the offeror's initial proposal. If available and if required by FAR 15.806, the contractor should provide the results of review and evaluation of subcontract proposals. Though not required, the offeror should provide reasons for omitted data/reviews with dates when the data/reviews will be available (instruction number 1, Materials).

(iv) A justification, submitted on an SF–1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, when claiming an exemption from submitting cost or pricing data (instruction number 1, Materials).

(v) A time phased, e.g., quarterly, annual, breakdown of labor rates and hours by category or skill level, and the basis for the estimates of rates and hours, e.g., historical experiences, engineering estimates, learning curves, etc. If labor is the allocation base for indirect costs, summarize for each overhead pool and year (instruction number 1, Direct Labor).

(vi) In the absence of a forward pricing rate agreement or indirect rate proposal, the contractor should show how indirect rates were estimated and applied as a basis for evaluating the reasonableness of the proposed rates. Support for the indirect rates could consist of cost breakdowns, trends, and budgetary data (instruction number 1, Indirect Costs).

(vii) Identification of all other costs by category and basis for pricing (instruction number 1, Other Costs).

(viii) When claiming cost of money, the contractor must submit Form CASB–CMF and show the calculation of the proposed amount (instruction number 1, Facilities Capital Cost of Money).

(ix) Identification of cost or pricing data, i.e., data that are verifiable and factual, and an explanation of the estimating process. When applicable, the following items should be specifically identified:

(A) Judgmental factors and the methods used in the estimate, including those used in projecting from known data; and

(B) The nature and amount of any contingencies (nstruction number 2).

(x) An index referencing all cost or pricing data and information accompanying or identified in the proposal (instruction number 4).

(xi) For change order proposals: an estimate of the cost to complete deleted work not yet performed; identification of the actual or estimated cost of deleted work already performed; and an estimate of the cost of work added (instruction number 7B).

(2) The Offeror Representations and Certifications provided in Section K of this

solicitation shall be included in this Part II—Cost and Pricing Data of your proposal.

(d) Proposals shall be submitted in _____ copies of Part I and _____ copies of Part II.

(End of provision)

2452.215–71 [Removed]

67. Section 2452.215–71, DUNS contractor establishment number, would be removed.

68. In section 2452.216–75, the introductory text would be revised to read as follows:

2452.216–75 Unpriced task orders.

As prescribed in 2416.504(e), insert the following clause:

* * * * *

69. Section 2452.219–70 would be added to read as follows:

2452.219–70 Small Business and small disadvantaged business subcontracting plan.

As prescribed in 2419.708, insert the following provision in negotiated solicitations exceeding $500,000:

Small Business and Small Disadvantaged Business Subcontracting Plan

([Insert month and year of final rule])

(a) This provision is not applicable to small business concerns.

(b) Consistent with the national interest, it is HUD policy that small business and small business concerns that are owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of HUD work at the prime and subcontract level. Therefore, any contract awarded as a result of this solicitation shall fully comply with the intent of this policy, and the successful offeror shall agree to pursue an effective and comprehensive small business and small disadvantaged business subcontracting program in compliance with the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns."

(c) Prior compliance with subcontracting plans shall be considered in determining the responsibility of an offeror (see FAR 9.104–3). Therefore, offerors having previous contracts with subcontracting plans shall provide the following information: agency name; agency point of contact; contract number; total contract value; a synopsis of the work required under the contract; the role(s) of the subcontractor(s) involved; and, the applicable goals and actual performance (dollars and percentages) for subcontracting with small and small disadvantaged business concerns. This information shall be provided for the three most recently (within the last three years) completed contracts with such subcontracting plans.

(d) The contract expected to result from this solicitation will contain the clause at FAR 52.219–9, "Small Business and Small Disadvantaged Business Subcontracting Plan." In accordance with that clause, the offeror shall submit the complete subcontracting plan with the response to this solicitation. The content of the final plan is subject to negotiation. Failure to submit a complete subcontracting plan and negotiate its content in good faith shall make the offeror ineligible for the contract award.

(End of provision)

Alternate I ([Insert month and year of final rule])

(a) This provision is not applicable to small business concerns.

(b) Consistent with the national interest, it is HUB policy that small business and small business concerns that are owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of HUD work at the prime and subcontract level. Therefore, any contract awarded as a result of this solicitation shall fully comply with the intent of this policy, and the successful bidder shall agree to pursue an effective and comprehensive small business and small disadvantaged business subcontracting program in compliance with the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns."

(c) Prior compliance with subcontracting plans shall be considered in determining the responsibility of a bidder (see FAR 9.104–3). Therefore, bidders having previous contracts with subcontracting plans shall provide the following information: Agency name; agency point of contact; contract number; total contract value; a synopsis of the work required under the contract; the role(s) of the subcontractor(s) involved; and, the applicable goals and actual performance (dollars and percentages) for subcontracting with small and small disadvantaged business concerns. This information shall be provided for the three most recently (within the last three years) completed contracts with such subcontracting plans.

(d) The contract expected to result from this solicitation will contain the clause at FAR 52.219–9, "Small Business and Small Disadvantaged Business Subcontracting Plan (Alternate I)." The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, which addresses separately subcontracting with small business concerns and small disadvantaged business concerns, and which shall be included in and made a part of the resultant contract. The Contracting Officer will review the adequacy of the subcontracting plan as part of the responsibility determination. Failure to submit an adequate subcontracting plan where applicable shall make the bidder ineligible for the contract award.

70. Section 2452.237–76 would be added to read as follows:

2452.237–76 Background investigations for sensitive automated systems/applications.

As prescribed in 2437.110(g), insert the following clause:

Background Investigations for Sensitive Automated Systems/Applications

([Insert date and month of final rule])

(a) *General.* This contract involves work on or access to an automated system [name] that has a sensitivity rating of [3 or 4], as defined in appendix A of HUD Handbook 2400.23, "ADP Security." All contractor employees working on this contract are required to have a background investigation commensurate with the rating of the automated system (position designation of: 6, High Risk; 5, Moderate Risk; or 1, Low Risk) in accordance with Federal Personnel Manual (FPM) chapters 731, 732, and 736. Any employee who is required to have a background investigation shall not be permitted to work on this contract without the required investigation; however, contractor employees in Low Risk positions are eligible for immediate (interim) approval if the contractor submits the required security package described in paragraph (c) of this section with 14 days of contract award. The contractor shall establish personnel security procedures that meet, as a minimum, the requirements of Handbook 2400.23 and shall provide a copy to the GTR.

(b) *Citizenship-related requirements.* Every contractor employee working on the sensitive applications of this contract shall satisfy at least one of the following requirements:

(1) Be a citizen living in the U.S.; or

(2) Owe allegiance to the U.S.

(c) *Approval process.* To obtain a background investigation, the contractor shall submit the following completed forms to the GTR for screening and transmittal to the Office of the Inspector General's (OIG) Security Staff for initiation of the required investigation: SF 85–P, Questionnaire for Public Trust Positions; SF 86A, continuation Sheet (if needed); SF–171, Application for Federal Employment; FD–258, Fingerprint Chart; and other forms or information as may be necessary. An original and two copies of SF–171 and SF 85–P are necessary. The investigation process shall consist of: a range of personal background inquiries and contacts (written and personal) pertaining to verification of the information provided on the security forms. The background investigation may be waived by HUD upon presentation of acceptable evidence that an employee has received a timely appropriate background investigation.

Upon completion of the investigation process, the Contracting Officer, after conferring with the appropriate HUD offices, shall notify the contractor in writing of the individual's eligibility or ineligibility to work on this contract. The contractor is responsible for ensuring that such investigations are requested as necessary for the performance of this contract. If contractor personnel will be working on-site in any HUD office, the contractor shall comply with the requirements of HUDAR clause 2452.237–75—Clearance of Personnel and obtain building passes for those personnel.

(d) *Signed pledges.* The contractor shall require that any employees who may have access to the automated systems identified in section C of this contract sign a pledge of

nondisclosure of information. These pledges shall be signed by the employees before they are assigned to this contract and shall be maintained by the contractor for a period of three years after final payment under the contract.

(e) *Nondisclosure of information.* Neither the contractor nor any of its employees shall divulge or release data or information developed or obtained during performance of this contract, except to authorized Government personnel with an established need to know or upon written approval of the Contracting Officer. Information contained in all source documents and other media provided by HUD are the sole property of HUD.

(f) *Contract performance.* If HUD receives disqualifying information on a contractor employee, the contractor, upon written notice, will immediately remove the employee from work on this contract. Contractor employees may be barred from working on this contract for failing to meet or maintain the suitability standards prescribed in FPM chapter 731, as applicable. Failure to comply with the terms of this clause may result in termination for default.

(g) *Notification.* The contractor shall notify the Government Technical Representative (GTR) in writing (with a copy to the contracting officer) whenever a cleared employee terminates employment or is no longer working on this contract, and the GTR shall notify the HUD ADP Security Staff, who will notify the OIG Security Staff. The contractor shall immediately notify the Contracting Officer of any breach or suspected breach of security or any unauthorized disclosure of the information contained in the automated system specified in this contract.

(h) *Subcontracts.* The contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (a) of this section are applicable to performance of the subcontract.

[End of clause]

71. Section 2452.237–77 would be added to read as follows:

2452.237–77 Observance of legal holidays and adminstrative leave.

As prescribed in 2437.110(h), insert the following clause:

Observance of Legal Holidays and Administrative Leave

([Insert month and year of final rule])

(a) The Department of Housing and Urban Development observes the following days as holidays:

New Year's Day
Martin Luther King's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Christmas Day
Columbus Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When any such day falls on a Saturday, the preceding Friday is observed; when any such day falls on a Sunday, the following Monday is observed. Observances of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When HUD grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the Contracting Officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of the Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided.

If services are provided for portions of days, appropriate adjustment will be made by the Contracting Officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

Dated: June 1, 1992.

Jim E. Tarro,

Assistant Secretary for Administration.

[FR Doc. 92–13171 Filed 6–5–92; 8:45 am]

BILLING CODE 4210–01–M

federal register

Monday
June 8, 1992

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will provide and discuss follow-up reports of business transacted at the last Sea Grant Review Panel Meeting in the areas of new technology and research, law and policy, management and organization, long-range planning, new procedures and strategic and tactical issues.

DATES: The announced meeting is scheduled during two days: Tuesday, June 9, 1992 (8 a.m.–12 noon and 1–3 p.m.), and Wednesday, June 10, 1992, (8 a.m.–12 noon and 1 p.m.–2 p.m.)

ADDRESSES: Silver Spring Metro Center 1 Building, 1335 East-West Highway, Conference Room—Lobby Level, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Shephard, National Sea Grant College Program, National Oceanic & Atmospheric Administration, 1335 East-West Highway, #5104, Silver Spring, Maryland 20910, (301) 713–2431.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128) and advises the Secretary of Commerce, Under Secretary, NOAA, and the Director of the National Sea Grant College Program with respect to operations under the act, and such other matters as the Secretary refers to the Panel for review and advice. The agenda for the meeting is:

Tuesday, June 9, 1992—8 a.m.–12 Noon

Introduction and Welcome of New Members
Logistics and Such
Approval of Minutes
OAR Comments
Activity Reports
  Executive Committee
  Sea Grant Director's Meeting
  New Procedures and Allocation Bylaws
Priority Issues for Sea Grant
  —Funding and Future Growth
  —Outreach and Marine Advisory Service
  —Bureaucratic Inefficiencies
  —Resource Allocation
  —Evaluation of Management and Orientation
  —Rationalization of Number of Sea Grant Entities
Sea Grant College Directors Report

Tuesday, June 9, 1992—1 p.m.–3 p.m.

National Sea Grant Office Director's Report
  —Appropriations
  —Biotechnology Initiative
  —Success Themes
  —NOAA University Policy
  —NASULGC Study
  —Regional Marine Research Programs Update
Congressional Communications
National Sea Grant Office Issues
  —Staffing
  —New Procedures
  —Strategic and Tactical Issues

Wednesday, June 10, 1992—8 a.m.–12 Noon

Committee Meetings
Joint Committee Discussions
Open Panel Session
Subcommittee Reports:
  —Law and Policy
  —New Technology and Research
  —Economic Development
  —Management and Organization
  —Long-Range Planning

Wednesday, June 10, 1992—1 p.m.–2 p.m.

Specific Actions and Motions
Report to Secretary of Commerce
Next Meeting
New Business
New Business
  —Fall Site Visits

The meeting will be open to the public.

Dated: June 4, 1992.

Ned A. Ostenso,

Assistant Administrator Oceanic and Atmospheric Research.

[FR Doc. 92–13547 Filed 6–4–92; 4:21 pm]

BILLING CODE 3510–12–M

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
4	(869-017-00003-5)	16.00	Jan. 1, 1992
5 Parts:			
1-699	(869-017-00004-3)	18.00	Jan. 1, 1992
700-1199	(869-017-00005-1)	14.00	Jan. 1, 1992
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27-45	(869-017-00008-6)	12.00	Jan. 1, 1992
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52	(869-017-00010-8)	24.00	Jan. 1, 1992
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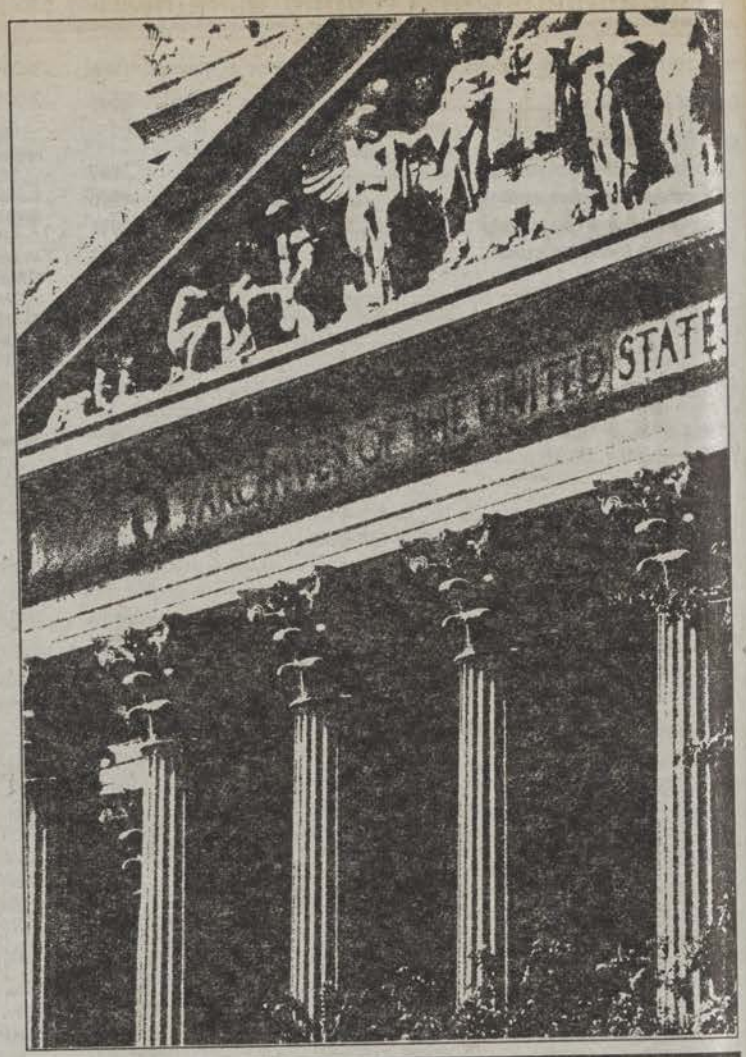

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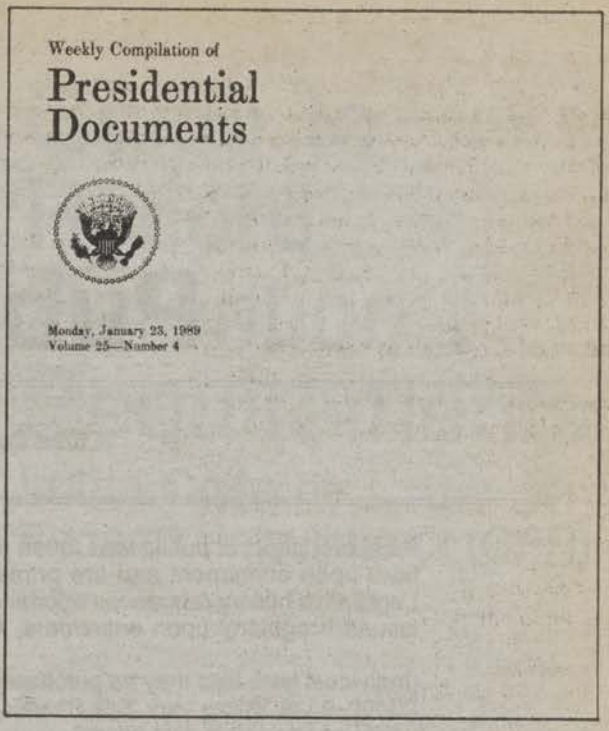

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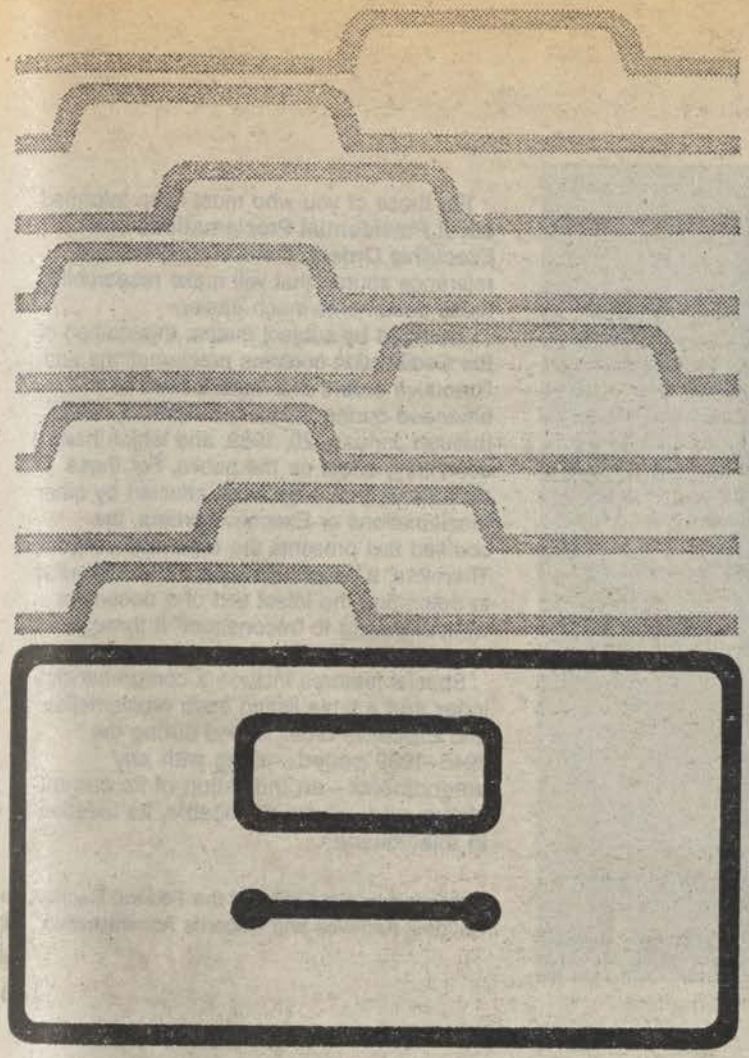

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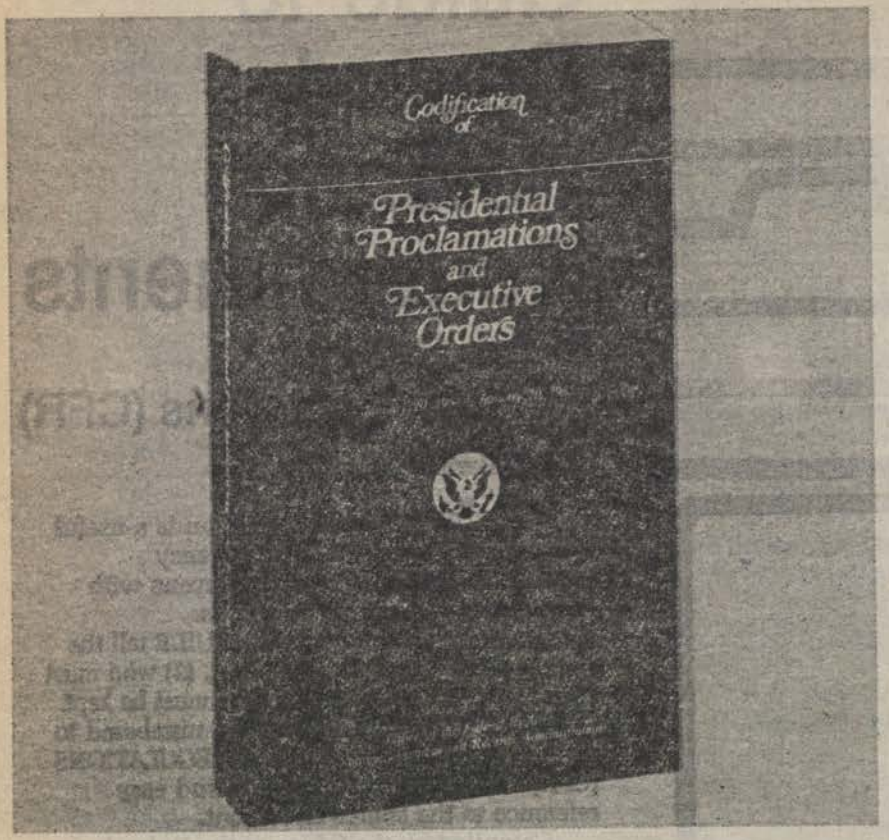

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